

***United States Court of Appeals  
for the  
District of Columbia Circuit***



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UNITED STATES COURT OF APPEALS  
for the  
DISTRICT OF COLUMBIA CIRCUIT

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NO. 23,515

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THE CITIZENS COMMITTEE TO  
PRESERVE THE PRESENT PROGRAMMING  
OF THE "VOICE OF THE ARTS IN  
ATLANTA ON WGKA-AM AND FM.",

Appellant,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Appellee,

and

STRAUSS BROADCASTING COMPANY OF  
ATLANTA,

Intervenor.

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On Appeal from the Federal  
Communications Commission

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APPENDIX FOR APPELLANTS

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United States Court of Appeals  
for the District of Columbia Circuit

FILED DEC 9 1969

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*Nathan J. Paulson*  
CLERK

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for the  
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APPENDIX FOR APPELLANTS

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# APPENDIX

## COMBINED TABLE OF CONTENTS AND RELEVANT DOCKET ENTRIES

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>APP. PAGES</u>
1	Covering letter dated March 5, 1968, to the Commission and Application for Transfer of Control of 100% of the stock of Glenkaren Associates, Inc., licensee of WGKA and WGKA-FM Atlanta, Georgia, including Exhibits A-D and 1-7.	1
4	Covering letter from David H. Lloyd dated April 22, 1968, enclosing an amendment to the transferee's portion of the Transfer Application including copies of articles from "The Atlanta Journal".	15
5	Covering letter from Reed Miller dated June 3, 1968, enclosing an amendment to the transferee's portion of the Transfer Application: 4 page amendment and 13 interview reports.	16
6	Public Notice and Memorandum Opinion and Order by the Commission granting the Transfer Application, issued August 28 and released September 4, 1968.	30
7	Letter to the Commission from Reed Miller dated September 9, 1968.	34
8	Petition for Reconsideration received September 25, 1968 from the Citizens Committee to Preserve the Present Programming of the "Voice of the Arts in Atlanta".	35
10	Opposition to Petition for Reconsideration filed by Strauss Broadcasting Company of Atlanta received October 9, 1968.	46

COMBINED TABLE OF CONTENTS AND RELEVANT DOCKET ENTRIES - CONTINUED

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>APP. PAGES</u>
11	Amendment to Petition for Reconsideration of Citizens Committee received October 21, 1968.	76
13	Request for Stay filed by Citizens Committee received October 21, 1968.	91
14	Opposition to Request for Stay filed by Strauss Broadcasting Company of Atlanta received October 25, 1968.	92
15	Motion to Strike Amendment to Petition for Reconsideration filed by Strauss Broadcasting Company received October 31, 1968.	98
17	Letter with enclosures dated November 6, 1968 from Reed Miller, counsel for Strauss Broadcasting Company.	151
18	Opposition to Motion to Strike Amendment to Petition for Reconsideration filed by Citizens Committee received November 14, 1968.	160
20	Request for Leave to Amend Committee's Petition for Reconsideration received November 22, 1968.	183
21	Reply to Opposition to Motion to Strike Amendment to Petition for Reconsideration filed by Strauss Broadcasting Company, received November 25, 1968.	185
22	Letter from counsel for Strauss Broadcasting Company dated November 27, 1968.	192
23	Letter with enclosures from counsel for petitioner dated December 4, 1968.	194
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25	Request for Leave to Amend and Second Amendment to Committee's Petition for Reconsideration received December 9, 1968; cover letter.	212
26	Motion to Strike Second Amendment filed by Strauss Broadcasting Company received December 10, 1968.	232
27	Opposition to Request for Leave to Amend and Second Amendment filed by Strauss Broadcasting Company received December 10, 1968.	235
29	Letter from counsel for petitioner, Citizens Committee, dated January 9, 1969.	238
30	Letter from Chief, Renewal and Transfer Division to counsel for petitioner dated January 14, 1969.	240
31	Letter from the Commission to Strauss Broadcasting Company, dated March 4, 1969.	241
34	Response of Strauss Broadcasting Company to Commission's March 4, letter, received April 30, 1969, and consisting of: <ul style="list-style-type: none"> <li>a) covering letter</li> <li>b) two identical letters from Strauss Broadcasting Company dated April 24 and 28.</li> <li>c) Exhibits A through D.</li> </ul>	242
35	Letter to Commission from counsel for petitioner dated March 19, 1969.	293
36	Letter from Chief, Renewal and Transfer Division to counsel for petitioner dated May 13, 1969.	296

COMBINED TABLE OF CONTENTS AND RELEVANT DOCKET ENTRIES - CONTINUED

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37	Letter to Commission from counsel for petitioner received May 29, 1969.	297
38	Commission's Memorandum Opinion and Order denying reconsideration in re transfer of control of licenses of WGKA and WGKA-FM, released August 25, 1969.	313



NOT APPLICABLE

7. Describe briefly the applicant's program format(s) during the past 12 months (e.g., country and western music, talk, folk music, classical music, foreign language, jazz, standard pops, etc.) and the approximate percentage of time per week devoted to such format(s).
8. State how and to what extent (if any) applicant's station contributed during the past license period to the over-all diversity of program services available in the area or communities served.
9. Was the applicant affiliated with one or more national, regional or special radio networks during the past license period?  
Yes \_\_\_\_\_ No \_\_\_\_\_. If "yes," give name(s) of network(s) \_\_\_\_\_
10. State the number of public service announcements broadcast by the applicant during the composite week: \_\_\_\_\_
11. A. If this application is for an FM station, did the programming duplicate that of any AM station?  
Yes \_\_\_\_\_ No \_\_\_\_\_. ("Duplicate" means simultaneous broadcasting of a particular program over both the AM and FM stations or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station—Section 73.242(a) of the Rules and Regulations.)  
B. If the answer is "yes," identify the AM station by call letters; describe its relation to the FM station; and state the number of hours each day in the composite week that were duplicated.
12. A. In applicant's judgment, does the information supplied in this Part II adequately reflect its past programming?  
Yes \_\_\_\_\_ No \_\_\_\_\_.  
B. If "no," applicant may attach as Exhibit No. \_\_\_\_\_ such additional information as may be necessary to describe accurately and present fairly its program service.  
C. If applicant's programming practices for the period covered by this statement varied substantially from the programming representations made in applicant's last renewal application, the applicant shall submit as Exhibit No. \_\_\_\_\_ a statement explaining the variations and the reasons therefor.

## PART III

## Proposed Programming

13. State the proposed total hours of operation during a typical week: 84
14. State the minimum amount of time the applicant proposes to devote normally each week to the program types (see Definitions) listed below. Commercial matter within a program segment shall be excluded in computing time devoted to that particular program segment (e.g., a fifteen-minute news program containing 3 minutes' commercial matter shall be computed as a 12-minute news program.)

	Hours	Minutes	% of Total Time on Air
(1) News .....	<u>9</u>	<u>48</u>	<u>11.7%</u>
(2) Public Affairs .....	<u>1</u>	<u>10</u>	<u>1.4%</u>
(3) All other programs, exclusive of Entertainment and Sports .....	<u>2</u>		<u>2.4%</u>

15. Submit in Exhibit No. 6 the following information concerning the applicant's proposed news programs:
- A. The staff, news gathering facilities, news services and other sources to be utilized; and
- B. An estimate of the percentage of news program time to be devoted to local and regional news during a typical week.

- See attached sheet

- See attached sheet

- See attached sheet

21. A. If this application is for an FM station will the programming duplicate that of any AM station? Yes \_\_\_\_\_ No X \_\_\_\_\_.  
("Duplicate" means simultaneous broadcasting of a particular program over both AM and FM stations or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station--Section 73.242(a) of the Rules and Regulations.)
- B. If the answer is "yes," identify the AM station by call letters; describe its relation to the FM station; and state the number of hours each day proposed to be duplicated.

NOT APPLICABLE

22. Give the following information with respect to the composite week:

6 A.M. - 6 P.M.

- |     |                                     |   |  |
|-----|-------------------------------------|---|--|
| A.  | Total broadcast time .....          |   |  |
| B.  | Time devoted to commercial matters: |   |  |
| (1) | Amount in hours and minutes .....   |   |  |
| (2) | Percentage .....                    | % |  |

**BEST COPY**  
from the original

16. Station policy regarding discussion of public or political issues is unbiased, and extreme care will be used to see that both sides of controversial issues are fairly presented.

In the case of controversial political announcements, comparable time will be reserved for the opponents of all candidates who purchase announcements on the station.

On newscasts, great care will be used to be sure that interviews and quotations used are equally divided between opposing factions when controversial items are involved, and between political parties when political questions are concerned.

Subjects and participants selected for discussion will normally be selected jointly by the program director and the news-director, with final decision in case of doubt being made by the station manager.

17. A format is proposed which will present pleasing blend of popular favorites, Broadway hits, musical standards, and light classics.

We propose to present a format featuring two musical selections, followed by no more than two commercials. Commercials will be separated by a station break or other separator. News will be presented in five minute programs once each hour, with headlines and market reports approximately a half hour away from the news. This format will include program time of approximately 85% and commercial time of 15% or less.



16. In connection with the applicant's proposed public affairs programming describe its policy with respect to making time available for the discussion of public issues and the method of selecting subjects and participants.

See attached sheet

17. Describe the applicant's proposed programming format(s), e.g., country and western music, talk, folk music, classical music, foreign language, jazz, standard pops, etc., and the approximate percentage of time per week to be devoted to such format(s).

See attached sheet

18. State how and to what extent (if any) applicant proposes to contribute to the over-all diversity of program services available in the area or communities to be served.

See attached sheet

19. State the minimum number of public service announcements applicant proposes to present during a typical week: 40

20. Will the applicant be affiliated with one or more national, regional, or special radio networks? Yes        No X

If "yes," give name(s) of network(s): \_\_\_\_\_

21. A. If this application is for an FM station will the programming duplicate that of any AM station? Yes X No         
 ("Duplicate" means simultaneous broadcasting of a particular program over both AM and FM stations or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station—Section 73.242(a) of the Rules and Regulations.)

- B. If the answer is "yes," identify the AM station by call letters; describe its relation to the FM station; and state the number of hours each day proposed to be duplicated.

News programs only of WGKA (AM) will be duplicated during operating hours of that station. WGKA is the AM facility of Strauss Broadcasting Company of Atlanta (assuming application for assignment of license which has been requested is granted). Duplicated program time will be approximately 1 1/2 hours daily.

#### PART IV

##### Post Commercial Practices

NOT APPLICABLE

22. Give the following information with respect to the composite week:

	<u>All Hours</u>	<u>6 A.M. - 6 P.M.</u>
A. Total broadcast time .....	.....	.....
B. Time devoted to commercial matter:		
(1) Amount in hours and minutes .....	.....	.....
(2) Percentage .....	..... %	..... %

Sect IV-A, Page 3

Paragraph 16

Station policy regarding discussion of public or political issues is unbiased, and extreme care will be used to see that both sides of controversial issues are fairly presented.

In the case of controversial political announcement, comparable time will be reserved for the opponents of all candidates who purchase announcements on the station.

On newscasts, great care will be used to be sure that interviews and quotations used are equally divided between opposing factions when controversial items are involved, and between political parties when political questions are concerned.

Subjects and participants selected for discussion will normally be selected jointly by the program director and the news director, with final decision in case of doubt being made by the station manager.

Sect IV-A, Page 3

Paragraph 17

A format is proposed which will present a pleasing blend of popular favorites, Broadway hits, musical standards, and light classics. We propose to present a format featuring ten minutes of music, followed by no more than two commercials during the daytime hours. At night, musical segments will be fifteen minutes in length. Commercials will be separated by a station break or other separator. News will be presented in five minute programs once each hour, with market reports twice each hour during applicable portions of the day. This format will include program time of approximately 85% and commercial time of 15% or less.

Sect IV-A, Page 3  
Paragraph 18.

We propose to contribute to the over-all diversity of program services available by rendering a specialized programming service required by this metropolitan market. WGBA-FM will render a community and civic service by providing a high quality music service encompassing popular standards, Broadway hits, and a moderate amount of light classics. As is evidenced by the interviews included with this application, WGBA-FM will be the only Atlanta station offering such a broad musical base.

WGBA-FM will not program either musically or by speech, songs with double-entendre lyrics nor will it ever program the type of music generally considered detrimental to teenagers and children.

EXHIBIT 3 (AM)  
(Response to Section IV-A, Par.1A)

In order to ascertain the needs and interests of the community, Dan Hayslett, Executive Vice President of Strauss Broadcasting Company went to Atlanta, Georgia, on December 11, 12, 13, 14, 1967.

While there, Mr. Hayslett personally interviewed the various community leaders named on the attached list. During these interviews, which lasted from fifteen to forty minutes, each individual was asked questions covering all aspects of the past and present programming of Radio Station WGKA. Additionally, each one was asked if any program need was missing and should be included in planning future programming for Radio Station WGKA. The Atlanta representatives were specifically asked if they felt that Radio Station WGKA adequately served the needs, tastes, and desires of the majority in this community.

It shall be the intention of Strauss Broadcasting Company of Atlanta and Radio Station WGKA to serve the City of Atlanta, Georgia, and the surrounding area. To this end a continuing dialogue with leaders of the community and with the public will be developed.

List of community leaders interviewed by Dan Hayslett:

Walter M. Mitchell, Fulton County Commissioner

Herbert T. Jenkins, Chief of Police

Howard Axelberg, Executive Vice President,  
Lillier, Neal, Battle & Lindsey

Dr. Paul D. West, Fulton County Superintendent of Schools

Frank Carter, President, Rotary Club

J. Robert Watson, President, Civitan Club

Augustus H. Sterne, President, Chamber of Commerce and  
President, Trust Company of Georgia

Dr. Pierce Harris, First Methodist Church, Pastor

Rev. Noel C. Burtensham, Chancellor, Catholic  
Archdiocese of Atlanta

Rabbi Jacob M. Rothschild, Rabbi, The Temple

Henry Bowden, Atlanta City Attorney and Chairman of  
Board of Trustees for Emory University

T. Talph Grimes, Fulton County Sheriff

Judge E. A. Wright, Judge, Civil Court, Fulton County

EXHIBIT 4 (AM)  
(Response to Sec. IV-A, Par. 1B)

As pointed out in the interviews with community leaders, WGKA presently supplies certain needs of the community but caters primarily to only a segment of the total audience. It was the general consensus of opinion that the facility could be utilized better if the programming had a more general appeal.

Transferee proposes an unduplicated musical program presenting standard popular favorites, blended with Broadway show tunes and a moderate amount of light classics.

In addition, WGKA will continue to function as an outlet for the presentation of local issues and to cooperate with public service organizations. Time will be made available to and utilized in connection with civic affairs and enterprises, charitable organizations and educational institutions.

Close cooperation will be provided to local, state, and national authorities in publicizing items of current interest. It is the intention of transferee to continue to survey the local population in order to present programming which will be responsive to their needs and interest.

News coverage will be provided through the facilities of the existing United Press wire service. It is planned by transferee to install the United Press Audio Service featuring up-to-the-minute voice actualities from around the country and the world discussing national and international affairs. To further augment the news ability of the station, the transferee plans to hire a full time news editor who will have whatever assistance is necessary to cover important news events.

Transferee will seek to be aware of its responsibility in the area of public service programming. It is the intention of the applicant to continue in the same fine tradition already established by WGKA. It is planned that a regular schedule of approximately thirty (30) public service announcements will be aired daily.

Additional typical programs which are planned are:

1. Monday through Friday - For the Atlanta Businessman and others traveling by air, WGKA will present "Jet Stream" weather, a concise report on the weather conditions to be expected in the nation's major cities and others most frequented by people traveling out of the Atlanta area. This feature will be presented twice daily on WGKA and three times daily on WGKA-FM.
2. Monday through Friday, five times each day, WGKA will include as a regular and special feature a brief message, talk content, entitled "Think It Over". These messages cover the entire range of material considered worthwhile or suitable as "food for thought"; e.g., a prayer, an inspirational message, a patriotic remembrance, practical advice, a famous saying or precept written by men ranging from Socrates to Washington to Lincoln to Will Rogers.
3. Monday through Friday - We intend to fill the need for regular stock market information with twice hourly reports concerning activities on the New York Stock Exchange, plus an afternoon capsule summary.
4. Monday through Friday - A daily sports feature will cover the top sports stories with voice actualities of prominent sportsmen in the Atlanta area as well as national and international ; a report on late scores; preview of up-coming sports events; coverage of leading golf tournaments in Atlanta; and seasonal reports on fishing and boating with the weather conditions affecting both of these sports.
5. Each Saturday, WGKA will air an in-depth stock market summary covering the "past week on Wall Street". This informative analysis of the week's market activities will provide a detailed report on the rise or fall of the market, and of the various stocks involved.



6. Each Sunday, WGKA will highlight a report on the activities in the nation's capitol, with a "backward glance" at the past week, and a preview of the "coming week" in Washington.
7. To serve the spiritual needs of the community, we plan a regular Sunday morning religious program, endeavoring to make time available to the various faiths represented in the area.
8. On Sunday, a special musical feature of WGKA will be its "Showcase of Broadway Musicals". Once each month the complete score of an outstanding musical, past and present, will be highlighted.
9. Monday through Friday - A daily feature will be a program interviewing prominent local people to discuss issues and public affairs pertinent to the community.

From time to time, as the need arises, time will be devoted to civic organizations and educational institutions calling attention to their operations, their accomplishments, and their place in the community.

Also, in cooperation with various public service activities, WGKA will supply generous amounts of air time to promote current campaigns and publicize fund-raising efforts of national and local charities.

Exhibit 6 (AM)

(Response to Section IV-A, Para 15, A3B)

The news staff will be headed by a full time news director, who will be responsible for editing and presentation of principal newscasts. News summaries may on occasion be given by the announcer on duty.

News will be obtained from the United Press wire service and in addition frequent use will be made of portable tape recorder and commercial telephone service to cover items of local as well as national interest. It is also the intention of the applicant to install the United Press Audio Service which will provide additional voice actualities of newsworthy items and personalities from around the country and the world.

Every newscast on WJKA with only an occasional exception, will include a special telephone taped interview or discussion with a political figure, government official, scientist or other informed personalities, to keep our audience well informed on the latest opinions and developments. In order to maintain an unbiased political balance, careful records will be maintained on all controversial items and equal time will be afforded to opposing factions.

WJKA's news department will maintain close liason with the local police, traffic, fire and sheriff's departments and will broadcast important information concerning traffic, accidents, flooding, fires, and street hazards in addition to any other information which is of interest to the community. During bad weather, the facilities of WJKA will be made available to local schools and community groups to disseminate information concerning schedule changes brought about by hazardous conditions.

It is estimated that items of local and regional interest will comprise approximately 50% of total time devoted to news within a typical week and will be about evenly divided with national and international news.

13 A

In order to ascertain the needs and interests of the community, Dan Hayslett, Executive Vice President of Strauss Broadcasting Company went to Atlanta, Georgia, on December 11, 12, 13, 14, 1967.

While there, Mr. Hayslett personally interviewed the community leaders named below. During these interviews, which lasted from fifteen to forty minutes, each individual was asked questions covering all aspects of the past and present programming of radio station WGKA-FM. Additionally, each one was asked if any program need was missing and should be included in planning future programming for radio station WGKA-FM. The Atlanta representatives were specifically asked if they felt that radio station WGKA adequately served the needs, tastes and desires of the majority in this community.

It shall be the intention of Strauss Broadcasting Company of Atlanta and radio station WGKA-FM to serve the City of Atlanta, Georgia, and the surrounding area.

List of community leaders interviewed by Dan Hayslett:

Walter M. Mitchell, Fulton County Commissioner  
Herbert T. Jenkins, Chief of Police  
Howard Axelberg, Executive Vice President,  
Lillier, Neal, Battle & Lindsey  
Dr. Paul D. West, Fulton County Superintendent of Schools  
Frank Carter, President, Rotary Club  
J. Robert Watson, President, Civitan Club  
Augustus H. Sterne, President, Chamber of Commerce and  
President, Trust Co. of Georgia  
Dr. Pierce Harris, First Methodist Church, Pastor  
Rev. Noel C. Burtensham, Chandellor, Catholic  
Archdiocese of Atlanta  
Rabbi Jacob M. Rothschild, Rabbi, The Temple  
Henry Bowden, Atlanta City Attorney and Chairman of  
Board of Trustees for Emory University  
T. Ralph Grimes, Fulton County Sheriff  
Judge E. A. Wright, Judge, Civil Court, Fulton County

As pointed out in numerous interviews with community leaders, WGKA-FM supplies certain needs of the community but caters primarily to only a minute segment of the total audience.

It was the general consensus of opinion that the facility could be utilized better if the programming had a more general appeal and was not so fractional in its audience approach.

We propose an unduplicated musical program presenting standard popular favorites, blended with Broadway show tunes and a moderate amount of light classics.

In addition, WGKA-FM will continue to cooperate with public service organizations. Time will be made available to and utilized in connection with civic affairs and enterprises, charitable organizations and educational institutions. Close cooperation will be provided to local, state and national authorities in publicizing items of current interest. It is the intention of assignee to continue to survey the local population in order to present programming which will be responsive to their needs and interest.

Excellent news coverage will be provided through the facilities of the existing United Press wire service. It is planned by assignee to install the United Press Audio Service, featuring up-to-the-minute voice actualities from around the country and the world discussing national and international affairs. To further augment the news ability of the station, the assignee plans to hire a full time news editor who will serve both WGKA and WGKA-FM and who will have whatever assistance is necessary to cover important news events.

Radio Station WGKA-FM is and always has been aware of its responsibility in the area of public service programming. It is the intention of the applicant, Strauss Broadcasting Company of Atlanta, to continue in the same fine tradition already established by WGKA-FM. It is planned that a regular schedule of approximately thirty (30) public service announcements will be aired daily.

Additional typical programs which will be presented are:

1. Monday through Friday - For the Atlanta businessman and others traveling by air, WGKA-FM will present "Jet Stream" weather, a concise report on the weather conditions to be expected in the nation's major cities and others most frequented by people traveling out of the Atlanta area. This feature will be presented three times daily on WGKA-FM.
2. Monday through Friday, five times each day, WGKA-FM will include as a regular and special feature a brief message, talk content, entitled "Think It Over". These messages cover the entire range of material considered worthwhile or suitable as "food for thought"; e.g., a prayer, an inspirational message, a patriotic remembrance, practical advice, a famous saying or precept written by men ranging from Socrates to Washington to Lincoln to Will Rogers.
3. Monday through Friday, we intend to fill the need for regular stock market information with twice hourly reports concerning activities on the New York Stock Exchange, plus an afternoon capsule summary at approximately 4:45 P.M.
4. Monday through Friday, a daily sports feature will cover the top sports stories, with voice actualities of prominent sportsmen in the Atlanta area as well as national and international; a report on late scores; preview of up-coming sports events; coverage of leading golf tournaments in Atlanta; and seasonal reports on fishing and boating with the weather conditions affecting both of these sports.

5. On Saturday, a complete analysis of the week's stock market activities will be presented, with an informative analysis of the "past week on Wall Street".
6. Each Sunday, WGKA-FM will highlight a report on the activities in the nation's capitol with a "backward glance" at the past week, and a preview of the "coming week" in Washington.

13 E



EXHIBIT 6 (FM)

Response to Sect. IV-A, Para 15-A, & 15B

News presented on WKKA-FM will be simulcast with WKKA news. The news staff will be headed by a full time news director who will be responsible for editing and presentation of principal newscasts. News summaries will on most occasions be given by the announcer on duty, during hours when WKKA (AM) is not on the air.

News will be obtained from the United Press wire service and in addition frequent use will be made of portable tape recorder and commercial telephone service to cover items of local as well as national interest. It is also the intention of the applicant to install the United Press Audio Service which will provide additional voice actualities of newsworthy items and personalities from around the country and the world.

Every newscast during the hours of WKKA<sup>(AM)</sup> operation will, with only an occasional exception, include a special telephone-taped interview or discussion with a political figure, government official, scientist, or other informed personality to keep our audience well informed on the latest opinions and developments. In order to maintain an unbiased political balance, careful records will be maintained on all controversial items and equal time will be afforded to opposing factions.

The news department which will be shared by WKKA and WKKA-FM will maintain close liason with the local police, traffic, fire, and sheriff's departments and broadcast important information concerning traffic, accidents, flooding, fires, and street hazards in addition to any other information which is of interest to the community. During bad weather, the facilities of the station will be made available to local schools and community groups to disseminate information concerning schedule changes brought about by hazardous conditions.

It is estimated that items of local and regional interest will comprise approximately 50% of total time devoted to news within a typical week and will be about evenly divided with national and international news.



Item 4

ARNOLD & PORTER

1229 NINETEENTH STREET, N.W.

WASHINGTON, D. C. 20036

223-3100

April 22, 1968

THURMAN ARNOLD  
PAUL A. PORTER  
WILTON V. FREEMAN  
NORMAN DIAMOND  
WILLIAM L. McGOVERN  
CAROLYN E. AGGER  
LOUIS EISENSTEIN (1915-1968)  
D. DUANE VICTOR  
VICTOR M. KRAMER  
ALFRED MILLER  
RBE KRASH  
WILLIAM D. ROGERS  
HOWELL HILL  
JULIUS M. GREISHAM  
EDGAR M. BRENNER  
DENNIS G. LYONS  
STUART J. LAND  
ROBERT E. HERZSTEIN  
JAMES R. MCALICE  
WALTER J. BOCALER  
WERNER KRONSTEIN  
PAUL S. BERGER  
JOHN T. RIGBY  
WILLIAM HENRY

JAMES F. FITZPATRICK  
MELVIN C. GARBOW  
BRUCE L. MONTGOMERY  
JOHN D. HAWKE, JR.  
MURRAY M. BRING  
PRISCILLA HOLMES  
ARTHUR E. STROUT  
DANIEL A. REZNEK  
JOHN A. EICHLER  
OLGALD M. STERN  
RICHARD S. EWING  
MELVIN SPAETH  
RICHARD L. BACON  
HARRY HUGG  
CHARLES R. HALPERN  
BROOKSLEY LANDAU  
BARBARA C. CAREY  
DAVID R. RENTOFF  
DAVID M. LLOYD  
MURRAY S. WEBER  
DAVID D. NOBLE  
JACK L. LIPSON  
ARMISTEAD W. GILLIAM, JR.  
MAX H. CROHN, JR.  
PETER K. BLEAKLEY  
ALEXANDER E. BENNETT  
JEROME I. CHAPMAN

CABLE ADDRESS  
"ARFORD"

Mr. Ben F. Waple, Secretary  
Federal Communications Commission  
Washington, D. C. 20554

Re: File No. BTC-5580

Dear Mr. Waple:

I transmit to you herewith in triplicate an amendment to the transferee's portion of the above-referenced application which requests Commission consent to a transfer of control of the licensee of stations WGKA and WGKA-FM, Atlanta, Georgia.

If there are any questions concerning this matter, kindly communicate directly with this office.

Very truly yours,

David H. Lloyd

Enclosures

bcc: Mr. Dan Hayslett

Note to Mr. Hayslett: Please see that a copy of the amendment is associated with the public inspection file in Atlanta.

DHL  
D.H.L.

15


CERTIFICATE OF AMENDMENT

The application requesting Commission consent to the transfer of control of the licensee of station WGKA and WGKA-FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta is hereby amended to incorporate the attached materials relating to the proposed programming of the transferee.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY  
OF ATLANTA

By



Robert S. Strauss  
Partner

May 17, 1968

### AMENDMENT

The purpose of this amendment is to provide further information concerning the programming proposals of Strauss Broadcasting Company of Atlanta for stations WGKA and WGKA-FM, Atlanta, Georgia, in connection with its acquisition of control of the licensee of those stations and the subsequent assignment of the licenses to Strauss Broadcasting Company of Atlanta.

WGKA and WGKA-FM are currently programmed as classical music stations. The Commission, we understand, has been the recipient of letters from individuals in the Atlanta area questioning our proposed change in the programming formats of the stations. We think it important to provide information as to the genesis of those letters, but before doing so we consider it desirable to provide further information concerning our proposed programming and the manner in which we determined that our programming would provide a needed broadcast service to the Atlanta area.

We understand that whatever questions have been raised about our programming (by virtue of the letters) deal only with what may be loosely referred to as our proposed "musical format." To our knowledge, no questions have been raised about our policies in presenting news, public affairs and other

non-entertainment programming, including the airing of views on controversial issues of public importance.

With respect to the "musical format," Strauss Broadcasting Company of Atlanta does not propose a "rock and roll station" or a "background music" service. The format which we propose is essentially one which we have developed with substantial audience acceptance and appreciation in Dallas, Texas (where we have operated for twenty-one years), and Tucson, Arizona. This format, with changes suited to local conditions, is one which we think is quite suited to, and needed in, the Atlanta market. Our surveys confirm this fact.

Insofar as musical selections, we will broadcast no tunes in the general categories of "rock and roll," "race," "religious," and "country and western." Other than these categories, we do not arbitrarily eliminate any other type of music. As set forth in the application, what we seek to achieve is a pleasant blending of popular favorites, Broadway hits, musical standards and light classical music. Our music will be selected on a highly discriminating basis from a library of over 200,000 selections, both vocal and instrumental. This is not "background music," it is "foreground music."

15C

In Dallas we have a musical director with four people working under him engaged in the selection process. We will also have a musical director in Atlanta who will receive some guidance from our Dallas director who has been working with this type of programming for about ten years.

In addition to musical content, the selection and positioning of commercials are factors important to the "sound" which we will achieve. As to commercials, we do not accept advertisements for laxatives, insecticides, depilatories and certain medicinals. Commercials for other products are accepted only after we have reviewed the copy content and have determined that they are in good taste and consistent with our format. Moreover, we limit the number of commercials which any particular advertiser may purchase in order to avoid distasteful repetition.

We seek to keep interruptions and commercials at a minimum, consistent with the station's financial requirements. In Atlanta, for example, when we have achieved our sales potential, we would broadcast at least two musical selections without any interruption (commercial or otherwise) on the AM station. That is to say, of course, we do

not introduce the records by way of label, title, author or performer in order to keep "clutter" at a minimum. As to the FM, except for five minutes of news programming per hour, we plan no duplication of AM programming. The present operators of the stations, it should be noted, simulcast all AM programming on the FM station.

Insofar as FM music selections are concerned, they will be of the same general nature as AM selections as discussed above. On the FM, however, during daytime hours ten minutes of uninterrupted music would be presented and during nighttime hours fifteen minutes of uninterrupted music would be presented. Thus, although the music to be presented on both stations will be similar, the formats and, therefore, the "sounds" of the two stations will be distinct.

In the transfer application, we set forth a representative list of persons in the Atlanta area whom we consulted about our programming plans. In each instance we explained in detail our format as discussed above and our plans for other programming in the non-entertainment area. No secret was made of the fact that we were proposing to acquire stations WGKA and WGKA-FM which program classical music. In no instance

was concern expressed to us about our proposed change in the stations' musical format. In every instance, on the other hand, our plans were looked upon with favor and we were told that we would be providing a needed service to the community of a type not now being provided.

Furthermore, we have reviewed, in the past and recently, the programming formats of all stations in the Atlanta area. At the time we formulated our programming plans and conducted interviews in the Atlanta market, no station in the area was programming in a manner even similar to that which we propose. After our proposed acquisition was announced, however, two stations attempted to present formats similar to our proposal. (We understand that at least one of them taped our Dallas station for a full week.) One of these stations has subsequently shifted its format again to a top-forty format and the other simply is not providing the service which we would provide -- that is, the formats may be similar, but the result -- the "sound" or "quality" -- is altogether different.

In summary to this point (a) we formulated a programming format, based on our experience and our review and surveys of the Atlanta market, which would be unique and provide a needed



service, and (b) we discussed our plans with leaders in the community and received nothing but support.

We recognize, of course, that we will be changing the stations from a classical music format. No doubt there is a small (but obviously vocal) segment of the population in Atlanta interested in classical music, but, as the newspaper articles which are attached and which will be discussed in more detail later reflect, there has not been any general acceptance by the public or commercial advertisers of classical music. We have made a good-faith judgment based on our experience and surveys of the market that we can fulfill a greater need, and hopefully be commercially successful, with our proposal.

The Commission has, we understand, received approximately 150 letters which in general are quite articulate, "complaining" about the change in format. Numerous of the letters you will find are predicated on a totally erroneous impression about the programming which we propose to present. References are, for example, made in those letters to the fact that we will provide "rock and roll" or "background" music and, as noted above, this is simply incorrect.

There are attached hereto copies of by-lined feature articles which appeared in the Atlanta newspapers about the proposed change in format. These articles (which appeared daily for almost a week) contain references to our proposed programming as being "loud," "background music" and "garbage." One of the articles, based on a misconception of our plans, goes so far as to refer to our proposed acquisition as a "catastrophe." This newspaper campaign, or more accurately "vendetta," culminated with an editorial which is also attached urging people to write to the Commission about the matter. We are advised that no letter received by the Commission precedes the newspaper campaign.

We think that a good deal of significance must be attached to the fact that the ultimate source of the letters obviously lies in the newspaper campaign. First, these newspapers -- The Atlanta Journal and The Atlanta Constitution -- are under common ownership and are the only daily newspapers in the area. The fact that this extensive and vindictive campaign by the only newspapers in the area generated so little public response from a metropolitan area of over two million people is itself indicative, we submit, of

the limited need and support for a classical music station in the area.

Perhaps of even more significance is the fact that the publisher of the newspapers owns more than one-third of the stock of Cox Broadcasting Corporation (a publicly traded company) which is the licensee of stations WSB, WSB-FM and WSB-TV, Atlanta. Is it not fair to inquire if, as the newspapers are editorially suggesting, there is such an overwhelming need for a classical music service in Atlanta, why their own stations do not fulfill that need?

While we may be far too close to the matter to be objective, we can only conclude that this extensive communications combine is not concerned about competition from a classical music station but is concerned about competition from our proposed provision of high-quality programming for the general adult audience.

We have been given to understand that no questions have been presented by our application. The concern is now with the letters being received from the public. The source of these letters and the limited response which that source has been able to achieve should, we submit, be dispositive of the matter.

In closing, we have determined, consistent with all Commission policies, that our proposed programming will serve the public interest, convenience and necessity in a manner which will sustain the stations so that the service can continue. As is the case with any commercial transaction, time is of importance and we can only hope that a competitor's campaign will not be permitted to thwart our objectives and the early establishment of a needed service in Atlanta.

Item 5

ARNOLD & PORTER

1229 NINETEENTH STREET, N.W.

WASHINGTON, D.C. 20036

222-3200

June 3, 1968

ARNOLD  
PORTER  
FREEMAN  
DIAMOND  
McGOVERN  
C. ADGER  
EISENSTEIN (1918-1966)  
VIETH  
RAMMER  
MILLER  
RASH  
W. RIGGERS  
MILL  
GREISMAN  
BRENNER  
OLYONS  
J. LAND  
HERZSTEIN  
MEALEE  
ROCKLER  
KRONSTEIN  
BERGER  
RIGBY  
HENRY  
FITZPATRICK  
GARROW

BRUCE L. MONTGOMERY  
JOHN D. MARRE, JR.  
MURRAY H. BRING  
PRISCILLA HOLMES  
ARTHUR E. STROUT  
DANIEL A. REZNECK  
JOHN A. EICHLER  
GERALD M. STERN  
RICHARD S. LEWIS  
MELVIN SPAETH  
RICHARD L. BACON  
HARRY HUGH  
CHARLES R. HALPERN  
BARBARA C. CAREY  
DAVID B. RENTOFF  
DAVID M. LLOYD  
MURRAY S. WEBER  
DAVID D. NOBLE  
JACK L. LIPSON  
ARMISTEAD W. GILLIAM, JR.  
MAX H. CROWN, JR.  
PETER A. GLEASLEY  
ALEXANDER E. BENNETT  
JEROME H. CHAPMAN  
MICHAEL SCHNEIDERMAN

CABLE ADDRESS  
"ARFOP"

Mr. Ben F. Waple  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Waple:

There is now pending before the Commission an application requesting consent to the transfer of control of the licensee of Station WGTA and WGTA-FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta (File No. ETC-5530). I am enclosing an original and two copies of an amendment to the application to supply additional information regarding the ascertainment of programming needs.

Very truly yours,

Enclosure

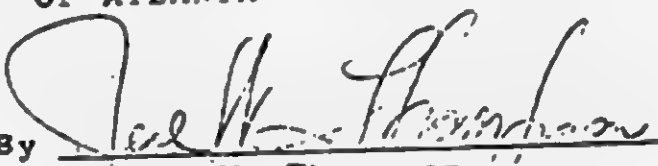
Reed Miller

CERTIFICATE OF AMENDMENT

The application requesting Commission consent to the transfer of control of the licensee of station WGKA and WGKA-FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta is hereby amended to incorporate the attached materials relating to the proposed programming of the transferee.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY  
OF ATLANTA

By   
Vere W. Thompson  
Partner

May 22, 1968

AMENDMENT

May 22, 1968

This amendment is offered to provide the details of the interviews conducted by Strauss Broadcasting Company of Atlanta to ascertain the programming likes and desires of Atlantans. The identification of the community leaders interviewed was set forth in Exhibit 3 to Section IV-A of the application as originally filed. As is there indicated, the interviews were conducted in Atlanta by Mr. Dan Hayslett, Executive Vice-President of Strauss Broadcasting Company, on December 11, 12, 13 and 14, 1967.

Attached hereto are summaries of the interviews with the community leaders indicated in the above-mentioned Exhibit 3. As will be noted from the summaries, the interviewees expressed the view that the program format proposed by Strauss Broadcasting Company of Atlanta would have a wider appeal than that previously offered by WGKA-AM and FM. Moreover, while some interviewees enjoyed classical music in small or moderate doses, these and others expressed a preference for a music mix of show tunes, "middle-of-the-road" music, old standards and some classical music.

Strauss Broadcasting is also aware that mass audience surveys in other metropolitan areas have confirmed that a



music mix of the type it proposes was preferred by the largest number of listeners. Thus, for example, we are informed that the well-known Louis Harris & Associates, Inc., public opinion analysts, has confirmed in a broad survey of the Los Angeles market in 1964 that "a carefully blended combination of old favorites, popular music and show tunes--with a smattering of semi-classical music thrown in"--is the only way in which the varied tastes of the community could be served. ("A Study of the Radio Program Needs and Preferences in the Area Serviced by Station KRLA", March, 1964, Louis Harris & Associates, Inc.). Similarly, in "A Study of Radio Listening Habits Among Consumers in the Metropolitan St. Louis Area", conducted by Peters Marketing Research, Inc., St. Louis, Missouri, May 25, 1965, it was concluded that old favorites and standards and general music outranked classical music in popularity among teens and adults combined.

Moreover, Strauss' own experience with the blend of music proposed in Atlanta, which has been in use by its stations in Dallas and Tucson, confirmed that it was highly popular and successful among radio listeners.

Finally, we would point out that while it is understood that, since the filing of the May 17, 1968 amendment to our application, the Commission has received several hundred

additional letters from classical music devotees, including at least two letters to which are appended numerous signatures, the total number of protestants still represents a small fraction of the total listening audience which Strauss would expect to serve in the Atlanta area. Moreover, it is again noted that, at least with respect to the two letters to which numerous signatures are appended, i.e., a letter of May 13, 1968 from David F. Rogers, and a letter of May 8, 1968, signed by George P. Macrenaris, et al., copies were directed to the Atlanta Journal-Constitution and to Mr. Dick Grey, Atlanta Newspapers, Inc. As pointed out in our May 17, 1968, amendment, the "write-in" campaign by classical music lovers was spawned and encouraged by inaccurate and misleading feature articles carried in these newspapers which hold a monopoly news media position in the Atlanta market and which operate, through a subsidiary, the competing stations WSB, WSB-FM and WSB-TV in Atlanta.

Strauss Broadcasting Company of Atlanta once again asserts that its proposed music format will serve the public interest in Atlanta--indeed, to a greater and broader extent than has the past format of WGKA; further, that Strauss made

a reasonable judgment, based upon its investigation of needs in the local area and its knowledge of the acceptance of and preference for its blend of music in other metropolitan markets, that its program proposals would serve the needs and desires of the public to be served. No station can be all things to all people. But Strauss believes that its format will satisfy a broader spectrum of listeners than has been the case with WGKA in the past. At the same time, it will provide music in quantities commensurate with the expressed interest of minority groups which will be designed to satisfy their special desires. In this way Strauss believes it can make WGKA AM and FM viable and vital communications instruments in Atlanta, using their full potentiality for service to the public. A monopoly newspaper-radio oriented campaign, sponsored by Strauss' potential competitors, should not be permitted to stifle or postpone that effort.

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INTERVIEW WITH WALTER M. MITCHELL  
COUNTY COMMISSIONER

LISTENS TO RADIO VERY LITTLE, OTHER THAN TO NEWS, AN OCCASIONAL SPECIAL FEATURE PROGRAM AND TO SPORTS PROGRAMS. HE STATED THAT WGKA WAS HIS WIFE'S FAVORITE STATION BECAUSE IT HAD SO LITTLE COMMERCIAL.

HE SAID THE SPORTS COVERAGE WAS VERY WELL DONE BY THE EXISTING STATIONS AND HE COULD SEE VERY LITTLE THAT COULD BE DONE BEYOND THAT NOW OFFERED. BECAUSE OF THE AREA, HE FELT THAT THERE WAS PLENTY OF AGRICULTURE PROGRAMS AVAILABLE TO ANYONE THAT WANTED TO LISTEN TO SUCH PROGRAMS. HE FURTHER STATED HIS HOPE THAT THE STATION WOULD DEVOTE TIME TO AIR ANNOUNCEMENTS PERTAINING TO COUNTY AFFAIRS.

AS TO HIS MUSIC PREFERENCE - HIS FAVORITE WAS LAWRENCE WELK AND OTHERS THAT PLAYED SIMILAR STYLES. HE SAID HE MIGHT LISTEN MORE TO A STATION THAT PLAYED THIS TYPE OF MUSIC, BUT HE DIDN'T THINK MUCH OF THIS TYPE MUSIC WAS NOW OFFERED BY THE STATIONS.

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KXNL • KXNL fm  
1040 kc 104.5 mc  
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KCEE • KCEE fm  
790 kc 96.1 mc  
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INTERVIEW WITH HERBERT T. JENKINS  
CHIEF OF POLICE

NEVER LISTENS TO THE STATION, BUT ASSUMED THAT HIS FAMILY MIGHT BE FAMILIAR WITH IT. HE DOES NOT LIKE CLASSICAL MUSIC, PREFERENCES MORE MIDDLE OF THE ROAD AND EVEN ON OCCASION LISTENS TO A LITTLE ROCK 'N ROLL.

CHIEF JENKINS FELT THAT SPORTS EVENTS WERE WELL COVERED NOW AND DIDN'T KNOW WHAT ELSE MIGHT BE DONE ALONG THIS LINE.

HE DOES NOT LISTEN TO PROGRAMS PERTAINING TO AGRICULTURE, BUT ASSUMED THAT THERE WERE PLenty AVAILABLE.

ENJOYS NEWS PROGRAMS, BUT MORE OF HIS RADIO LISTENING IS CONFINED TO POLICE RADIO. TOLD ME TO SUBMIT LIST OF PERSONS WHO SHOULD HAVE PRESS CARDS AND HE WOULD SEND THEM TO ME. BECAUSE HE IS USUALLY BUSY, HE PREFERENCES FIVE MINUTE NEWSCASTS TO THE LONGER TYPE WITH NEWSMAN ELABORATING. HE APPRECIATES THE COOPERATION OF THE RADIO STATION IN THE PAST AND LOOKED FORWARD TO WORKING WITH US AS THE NEED ARISES.

23

KXNL • KXNL fm  
1040 kc 104.5 mc  
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INTERVIEW WITH DR. PAUL D. WEST  
FULTON COUNTY SUPERINTENDENT OF SCHOOLS

VERY FAMILIAR WITH THE STATION AS HE LIKES CLASSICAL MUSIC. ADDITIONALLY, MOST OF THE OTHER STATIONS HAVE MORE COMMERCIALS AND HE LIKES WGKA BECAUSE IT HAS SO FEW COMMERCIALS TO INTERRUPT THE PROGRAMMING.

HE SAID THAT SO MANY PEOPLE TODAY ARE DEVOTED TO RADIO BECAUSE OF ITS DIVERSIFICATION THAT A BROADENING OF THE PROGRAMMING ON WGKA WOULD BE BENEFICIAL BECAUSE IT WOULD BE MORE APPEALING TO A LARGER NUMBER OF PEOPLE. HE STATED THAT HIS DEPARTMENT WOULD PRESUME THAT WE WOULD AIR SPOTS WHEN WEATHER AFFECTS SCHOOLS OR WHEN UNUSUAL SITUATIONS OCCUR PERTAINING TO EDUCATION.

ATLANTA IS A SPORTS LOVING TOWN AND THE AMOUNT OF SPORTS COVERAGE OFFERED BY THE OTHER STATIONS IS POSITIVE PROOF. AGRICULTURE IS ALSO WELL DONE, COUNTY AGENT IS ON EACH MORNING AND ANOTHER GOOD AGRICULTURE PROGRAM IS ONE DONE FROM ATHENS, GEORGIA.

HE LIKES A COMBINATION OF CLASSICAL MUSIC, AND MIDDLE OF THE ROAD MUSIC, AND FELT THAT THE PROGRAMMING PROPOSED WOULD BE WELL RECEIVED BY ATLANTANS AS THERE IS NOTHING EXACTLY LIKE THAT NOW BEING DONE.

24

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1040 kc 104.5 mc  
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INTERVIEW WITH J. ROBERT WATSON  
PRESIDENT, CIVITAN CLUB  
VICE PRESIDENT, FULTON SAVINGS & LOAN

HAVING BEEN IN BROADCASTING FOR NINETEEN YEARS IN ATLANTA, HE WAS FAMILIAR WITH WGKA. HE IS NOW VICE PRESIDENT OF A SAVINGS AND LOAN COMPANY AND HANDLES THEIR ADVERTISING. IT WAS HIS FEELING THAT WGKA HAD A CERTAIN APPEAL, BUT TO A VERY LIMITED AUDIENCE. HE STATED THAT THERE WAS NO STATION IN ATLANTA PROGRAMMING CONSISTENT MIDDLE-OF-THE-ROAD MUSIC AND A STATION PROGRAMMING AS WE PROPOSE WOULD BE WELL RECEIVED.

HE PREPARES FIVE MINUTE NEWSCASTS AND WHILE HE ENJOYS THE SPORTS PROGRAMS OFFERED BY OTHER STATIONS, HE COULD NOT SEE ANY NEED FOR MORE SPORTS PROGRAMMING. HE DOES NOT PARTICULARLY LISTEN TO AGRICULTURE PROGRAMS, BUT WAS AWARE OF WHAT WAS BEING DONE AND FELT THEY WERE MORE THAN ADEQUATE.

HE STATED THAT WGKA REGULARLY CARRIED A FINE ARTS ACTIVITY SCHEDULE, BUT THAT WAS ABOUT THE EXTENT OF THEIR COMMUNITY INVOLVEMENT. WGKA HAD DONE LIVE DIRECT BROADCASTS OF SYMPHONIES AND CERTAIN OTHER PROGRAMS, BUT ALWAYS DEALING WITH CLASSICAL ARTISTS.

25

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1040 kc 104.5 mc  
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KCFE • KCFE fm  
790 kc 96.1 mc  
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INTERVIEW WITH AUGUSTUS H. STERNE  
PRESIDENT, CHAMBER OF COMMERCE

MR. STERNE NEVER LISTENS TO WGKA AND WAS NOT TOO FAMILIAR WITH THE STATION. HE LISTENS TO ANOTHER STATION BECAUSE OF ITS NEWS AND FOR MUSIC MORE TO HIS TASTE. AS PRESIDENT OF ONE OF ATLANTA'S LARGEST BANKS, HE FELT THAT PROGRAMMING SUCH AS WE HAVE PROPOSED WOULD HAVE GREATER APPEAL TO MORE PEOPLE THAN THE PROGRAMMING NOW OFFERED ON WGKA, AND WOULD MAKE THE STATION MORE OF A FACTOR IN ATLANTA.

HE PREFERS FIVE MINUTE NEWSCASTS BECAUSE HE LISTENS MOSTLY IN HIS CAR AND DOES NOT LIKE TO BE LISTENING TO A LONG NEWSCAST WHEN HE HAS TO LEAVE HIS CAR AND MISS PART OF A NEWS STORY - DOES NOT LISTEN TO AGRICULTURE PROGRAMS, BUT ASSUMES THERE IS PLENTY AVAILABLE. HE ENJOYS SPORTS AND NEVER HAS ANY TROUBLE FINDING WHATEVER HE WANTS TO LISTEN TO ON RADIO - DIDN'T KNOW WHAT ELSE COULD BE DONE.

A RADIO STATION CAN DO MUCH FOR A COMMUNITY AND THE PUBLIC SERVICE SPOTS CALLING ATTENTION TO VARIOUS CITY ACTIVITIES AND DEVELOPMENTS. IT WAS HIS HOPE THAT WE WOULD USE SUCH MATERIAL WHEN IT WAS SUBMITTED TO THE STATION.

26

KIXI • KIXI fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

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INTERVIEW WITH DR. PIERCE HARRIS  
FIRST METHODIST CHURCH, PASTOR

HE WAS NOT FAMILIAR WITH WGKA, BUT EVEN IF HE WERE, HE WOULD NOT LISTEN TO IT BECAUSE OF ITS ONLY PLAYING CLASSICAL MUSIC. HE INTERPRETS CLASSICAL MUSIC, AS MUSIC THAT THREATENS TO DEVELOP INTO A TUNE - BUT NEVER DOES.

HE STATED THAT HE ENJOYS SPORTS PROGRAMS AND LISTENS TO THEM ON OCCASION, AND COULD NOT SEE WHAT ELSE COULD BE DONE THAT WAS NOT ALREADY BEING DONE. HE HAS NEVER LISTENED TO ANY AGRICULTURE PROGRAMS AND HAD NO OPINION ON THIS TYPE OF PROGRAM.

IT WAS HIS OPINION THAT ONLY A MINUTE FRACTION OF THE PEOPLE LIKE CLASSICAL MUSIC AND HE FELT THAT A RADIO STATION HAD AN OBLIGATION TO SERVE AS MANY PEOPLE AS POSSIBLE. HE FELT THAT PROGRAMMING SUCH AS WE WERE PROPOSING WOULD BE A MOST WELCOME RELIEF FROM THAT CURRENTLY OFFERED.

27

KIXI • KIXI fm  
1040 kc 104.5 mc  
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INTERVIEW WITH REV. NOEL C. BURTENSHAM  
CHANCELLOR, CATHOLIC ARCHDIOCESE  
OF ATLANTA

HE WAS VERY FAMILIAR WITH WGKA AS HE ENJOYS CLASSICAL MUSIC OCCASIONALLY. HE STATED THAT HE WAS NOT SURPRISED THE STATION WAS SELLING, BECAUSE HE HAS NOTICED THE LACK OF COMMERCIALS AND HE IS AWARE THAT A STATION MUST AIR COMMERCIALS IF THEY PLAN TO SURVIVE.

LIKE MOST ATLANTANS, HE IS A BIG SPORTS FAN, BUT COULD NOT THINK OF ANYTHING IN SPORTS THAT WAS NOT BEING COVERED NOW. HE HAS NO INTEREST IN AGRICULTURE TYPE PROGRAMS, SO HE DOES NOT LISTEN - BUT WAS AWARE THAT THIS FORM OF PROGRAMMING WAS NOW BEING OFFERED. FATHER BURTENSHAM SAID THAT WHILE THE CATHOLIC MASS DID NOT LEND ITSELF TO RADIO, THAT HE HOPED THE STATION WOULD INCLUDE ANNOUNCEMENTS PERTINENT TO THE CATHOLIC COMMUNITY.

HE STATED THAT HE LIKES MODERN GOOD MUSIC AND WAS ENTHUSIASTIC ABOUT OUR PROPOSED PROGRAMMING. HE FELT THAT A PROGRAM FORMAT SUCH AS WE ARE PROPOSING WOULD HAVE AN APPEAL TO MORE PEOPLE AND WOULD AT THE SAME TIME RETAIN MUCH OF THE AUDIENCE THE STATION NOW HAS SINCE SOME CLASSICAL MUSIC WOULD BE OFFERED.

HE ENJOYS A LONG NEWSCAST EARLY IN THE MORNING, BUT OVERALL HE PREFERS THE SHORT FIVE MINUTE NEWSCAST.

28

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INTERVIEW WITH RABBI JACOB M. ROTHSCHILD  
RABBI, THE TEMPLE

HE DOES NOT LISTEN TO THE STATION, BUT KNOWS OF IT AND HIS WIFE LISTENS TO IT ALL THE TIME IN HER CAR AND HOME. RABBI LISTENS TO ANOTHER STATION, BUT ONLY FOR NEWS - HE ENJOYS POPULAR MUSIC AND INDICATED THAT OUR PROPOSED FORMAT WOULD BE WELL ACCEPTED IN ATLANTA AND THERE WAS DEFINITELY A PLACE FOR SUCH A STATION. HE WAS NOT SURPRISED ABOUT THE SALE SINCE HE HEARD SO LITTLE COMMERCIAL ON WGKA.

HE ENJOYS SPORTS AND FELT THAT THIS TYPE OF PROGRAM WAS WELL COVERED AND DID NOT KNOW WHAT COULD BE ADDED - NEVER LISTENS TO AGRICULTURE - SAID HE WOULD BE ANXIOUS FOR US TO TAKE-OVER SO HE COULD HEAR IT. IN HIS OPINION, THE SHORT NEWSCAST WAS PROBABLY BETTER LIKED BY MORE PEOPLE, BUT HE ENJOYED A LONGER NEWSCAST WHICH HE COULD LISTEN TO WHILE DRIVING TO AND FROM HIS OFFICE EACH DAY.

RABBI ROTHSCHILD FURTHER INDICATED THAT HE DID NOT KNOW IF WGKA CARRIED ANY RELIGIOUS PROGRAMS NOW, BUT HE FELT THAT EVERY STATION SHOULD DEVOTE SOME TIME TO RELIGION.

29

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DALLAS, TEXAS

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INTERVIEW WITH HENRY BOWDEN  
CITY ATTORNEY AND CHAIRMAN BOARD  
OF TRUSTEES OF EMORY UNIVERSITY

WAS FAMILIAR WITH STATION BUT LISTENED VERY LITTLE - MOST OF HIS LISTENING WAS TO ANOTHER NETWORK STATION. HE FELT THAT OUR PROPOSED PROGRAM WOULD INTEREST HIM AND MANY OTHERS THAT DO NOT LISTEN TO THE STATION NOW BECAUSE OF THE CLASSICAL MUSIC.

HE PREFERS THE FIVE MINUTE NEWSCAST TO LONGER ONES. HE FELT THAT SPORTS WERE WELL COVERED AND WAS SURPRISED THAT A PARTICULAR COLLEGE BASKETBALL GAME BEING PLAYED IN MEMPHIS WAS NOT CARRIED BY ANY STATION IN ATLANTA. HE DOES NOT LISTEN TO AGRICULTURE PROGRAMS, BUT ASSUMED THERE WAS PLENTY AVAILABLE.

HE STATED THAT THE STATION HAD A GOOD IMAGE, BUT HAD VERY LIMITED APPEAL AND A LIGHTER TYPE OF MUSIC WOULD CERTAINLY HAVE MORE LISTENERS AND WOULD BE A BETTER USEAGE OF THE BROADCAST CHANNEL. MR. BOWDEN SAID HE WAS APPRECIATIVE OF THE SUPPORT OFFERED BY ALL RADIO STATIONS AND PRESUMED IT WOULD BE OUR POLICY TO CONTINUE TO AIR ANNOUNCEMENTS OR PROGRAMS ON AFFAIRS CONCERNING ATLANTA PEOPLE.

29 A

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INTERVIEW WITH T. RALPH GRIMES  
SHERIFF, FELTON COUNTY, GEORGIA

KNEW NOTHING ABOUT THE STATION, HAD  
NEVER HEARD IT AND WAS NOT AWARE  
THERE WAS SUCH A STATION IN ATLANTA.

VERY SPORTS MINDED AND LISTENS TO  
SPORT PROGRAMMING REGULARLY AND  
COULD NOT SEE WHERE ANYTHING COULD  
BE ADDED. HE DOES NOT LISTEN TO  
AGRICULTURE PROGRAMS AND KNEW NOTHING  
ABOUT SUCH PROGRAMS. HE ASSUMED THAT  
THE STATION WOULD BE COOPERATIVE WHEN  
CALLED UPON BY HIS DEPARTMENT.

HE PREFERENCES SHORT NEWSCASTS AND MAYBE  
ONCE A DAY A LONGER ONE. DOES NOT  
LIKE CLASSICAL MUSIC AND PREFERENCES OLD  
STANDARDS, AND EASY MOVING POPULAR.  
IN HIS OPINION A MUSIC FORMAT SUCH  
AS WE ARE PROPOSING WOULD BE WELL  
ACCEPTED.

29B

KXL • KXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCFE • KCFE fm  
780 kc 96.1 mc  
TUCSON, ARIZONA



Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5016

INTERVIEW WITH JUDGE E. A. WRIGHT  
JUDGE, CIVIL COURT, FULTON COUNTY

HE LISTENS TO WGKA FREQUENTLY AND IT IS HIS WIFE'S FAVORITE STATION BECAUSE IT HAS SO FEW COMMERCIALS. HE SAID THAT HE RATHER ENJOYED COMMERCIALS ONCE IN AWHILE AND THEY DID<sup>NOT</sup> BOTHER HIM.

EACH MORNING BETWEEN 5:00 - 6:00 AM, HE LISTENS TO AGRICULTURE/FARM PROGRAMS AND ALSO AT THE NOON HOUR WHEN HE HAS THE TIME.

JUDGE WRIGHT STATED THAT HE LIKES SPORTS AND CAN USUALLY GET ABOUT WHATEVER HE WANTS TO HEAR, AND DID NOT HAVE ANY IDEA WHAT ELSE COULD BE OFFERED.

HE STATED THAT HE WOULD PROBABLY LISTEN TO A STATION SUCH AS WE ARE PROPOSING, BUT FELT CERTAIN THAT IT WOULD SERVE MORE PEOPLE WITH SUCH DIVERSIFIED MUSIC. HE HAD NO STRONG OPINION ABOUT THE LENGTH OF NEWSCASTS, BUT FELT THAT THE FIVE MINUTE NEWS PROGRAMS WERE MORE COMPATIBLE WITH THE TYPE PROGRAMMING WE HAVE SUGGESTED.

29C

KJNL • KJNL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

Executive Offices • 1401 South Alford Street • Dallas 75215, Texas • (214) 741-5016

INTERVIEW WITH FRANK CARTER  
PRESIDENT, ROTARY CLUB

MR. CARTER WAS NOT FAMILIAR WITH THE STATION, BUT THOUGHT HIS WIFE MIGHT LISTEN TO IT. HE LISTENS PRIMARILY TO ONE OF THE LARGE NETWORK STATIONS BECAUSE OF HIS INTEREST IN NEWS.

HE ENJOYS SPORTS AND STATED THAT HE FELT THERE WAS ALMOST TOO MUCH OF THIS TYPE PROGRAM AND CERTAINLY NO NEED FOR ANYMORE. BECAUSE OF HIS INTEREST IN COTTON, HE WAS VERY FAMILIAR WITH AGRICULTURE PROGRAMS AND LISTENS REGULARLY TO THEM: BUT HE SEES NO NEED FOR ANY ADDITIONAL PROGRAMS.

BECAUSE OF HIS MUSIC TASTES, HE STATED HE WOULD ENJOY A STATION SUCH AS WE ARE PROPOSING AND WOULD PROBABLY BE A LISTENER. PREFERS 5 MINUTE NEWS-CASTS THROUGHOUT THE DAY, BUT LIKES A LONGER MORE COMPREHENSIVE NEWSCAST EARLY IN THE MORNING.

29D

KXNL • KXNL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5016

INTERVIEW WITH HOWARD AXELBERG  
EXECUTIVE VICE PRESIDENT  
LILLIER NEAL & BATTLE ADV. AGENCY

WGKA HAS AN EXTREMELY GOOD IMAGE IN THE MARKET, BUT ACTUALLY ONLY APPEALS TO A VERY SMALL SEGMENT OF PEOPLE SO THAT IT IS NO REAL FACTOR IN THE MARKET FROM AN ADVERTISING STANDPOINT. THE STATION HAS PUT ITSELF IN THIS SMALL NICHE, BUT HE BELIEVES IF THE PROGRAMMING WERE BROADENED, IT WOULD HAVE APPEAL FOR MORE PEOPLE.

MR. AXELBERG SELDOM LISTENS TO THE STATION AS HE PREFERS POPULAR MUSIC. HE IS FAMILIAR WITH OUR DALLAS STATION AND STATED THAT THE MARKET COULD USE AND NEEDS THE KIXL FORMAT, AND IT WOULD BE A TREMENDOUS IMPROVEMENT IN WGKA.

HE IS A SPORTS FAN AND SAYS THAT THIS AREA IS ADEQUATELY COVERED, ALMOST TOO MUCH AT CERTAIN TIMES. SINCE THEY DO HAVE CLIENTS INTERESTED IN AGRICULTURE PROGRAMS, HE IS FAMILIAR WITH THEM AND FEELS THAT THIS AREA HAS SUFFICIENT PROGRAMMING AVAILABLE. HE FEELS THE FIVE MINUTE NEWSCAST FITS A STATION, SUCH AS WE ARE PROPOSING, MORE THAN THE LONGER NEWSCASTS IN DEPTH.

29 E

24777

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

In re Application of )  
)

GLENKAREN ASSOCIATES, INC. )  
(TRANSFEROR) )

and )

STRAUSS BROADCASTING COMPANY )  
(Composed of Robert Strauss, Theodore )  
Strauss, and Dan Hayslett) Which Will )  
Own 66 2/3% of the stock, and Jere W. )  
Thompson, Who Will Own the Remaining )  
33 1/3%, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(TRANSFeree) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM )  
Atlanta, Georgia )

FILE NO. BTC-5580

ERRATA

1. The above caption appearing on the Memorandum, Opinion and Order (FCC 68-890) adopted August 28, 1968, released September 4, 1968, should be corrected in part to read as follows:

In re Application of )  
)

Barton C. Isbell, Jr. et al, all )  
stockholders of )  
GLENKAREN ASSOCIATES, INC. )  
(TRANSFERORS) )

and )

The partnership, composed of )  
Strauss Broadcasting Company and Jere W. )  
Thompson, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(TRANSFeree) )

FILE NO. BTC-5580

FEDERAL COMMUNICATIONS COMMISSION

Ben F. Waple  
Secretary

Released: November 21, 1968

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

In re Application of )

GLENKAREN ASSOCIATES, INC. )  
(TRANSFEROR) )

and )

FILE NO. ETC-5580

STRAUSS BROADCASTING COMPANY )  
(Composed of Robert Strauss, Theodore )  
Strauss, and Dan Hayslett) Which )  
Will Own 66 2/3% of the stock, and )  
Jere W. Thompson, Who Will Own the )  
Remaining 33 1/3%, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(TRANSFeree) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM )  
Atlanta, Georgia )

MEMORANDUM OPINION AND ORDER

Adopted: August 28, 1968

Released: September 4, 1968

By the Commission: Commissioner Cox dissenting; Commissioner Wadsworth  
absent; Commissioner Johnson abstaining from voting.

1. The Commission has before it the above-entitled application  
to transfer control of the licensee of Stations WGKA-AM and FM.

2. Stations WGKA-AM and FM are the only stations in Atlanta  
presently devoting their entire time to the broadcast of serious classical  
music. The AM programming is now duplicated on the FM station. Glenkaren's  
stockholders are transferring the stations because the additional capital  
needed to make the necessary changes in the AM operation is not available  
through the current owners. The transferee proposes to change the enter-  
tainment format of these stations by substituting programming consisting of  
popular favorites, Broadway hits, musical standards, and light classics  
which, it believes, will better serve the varied tastes of the community.  
While WGKA-FM will follow the same format, it will duplicate only the news  
programs of the AM station which operates daytime only.

2.

3. The transferee, prior to filing its application, discussed its proposal with numerous community leaders and states that it "received nothing but support." Additionally, it asserts that at the time the programming plans were formulated and interviews were conducted in the Atlanta market, no station was programming in a manner similar to that proposed.

4. The transferee represents:

"With respect to the 'musical format,' Strauss Broadcasting Company of Atlanta does not propose a 'rock and roll station' or a 'background music' service....Insofar as musical selections, we will broadcast no tunes in the general categories of 'rock and roll,' 'race,' religious,' and 'country and western.' Other than these categories, we do not arbitrarily eliminate any other type of music. As set forth in the application, what we seek to achieve is a pleasant blending of popular favorites, Broadway hits, musical standards and light classical music. Our music will be selected on a highly discriminating basis from a library of over 200,000 selections, both vocal and instrumental."

Except for the entertainment programs the operation of these stations under the transferee's ownership would be similar to that of the transferor.

5. The change in entertainment programming proposed by the transferee was the subject of criticism in numerous columns appearing in a local newspaper which was written by its television and radio editor. These columns asked readers who wanted to retain classical music to write to the Chairman of the Commission urging that the classical music format of these stations be preserved. After the publication of these columns, more than two thousand persons informally asked the Commission not to permit a change in the music format of these stations.

6. In our review of the over-all programming proposal presented by the transferee we considered carefully the concern expressed in the many informal complaints. We can appreciate that concern. However, the transferee has established through surveys and other methods that its proposal would serve the needs and interests of the people in the Atlanta market and the new specialized programming specifically serves the public interest. That being the case, the matter is one for judgment of the broadcaster and

51.



3.

the Commission, in these instances, cannot properly insist that the prior format must be retained.

7. For these reasons and because it is our judgment that the programming proposed accords with the public interest, we believe the informal objections to the transferee's proposal raises no substantial question which requires hearing.

8. Since our review of the over-all proposal presented by the transferee convinces us that it is in the public interest, convenience and necessity, and the applicant (transferee) being otherwise qualified in all respects, IT IS ORDERED That the said application be, and the same is hereby GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Ben F. Waple  
Secretary

# ARNOLD & PORTER

1229 N NINETEENTH STREET, N.W.

WASHINGTON, D.C. 20036

222-3200

September 9, 1968

OFFICE OF THE SECRETARY

BRUCE L. MONTGOMERY  
JOHN D. HAYNE, JR.  
MURRAY H. BRING  
PRISCILLA HOLMES  
ARTHUR L. STROUT  
DANIEL A. REZNICK  
JOHN A. EICHLEN  
GERALD M. STEIN  
RICHARD S. EWING  
MELVIN SPAETH  
RICHARD L. BACON  
DAVID H. HUGHES  
CHARLES R. HALPERN  
DAVID P. KENTOFF  
DAVID H. LLOYD  
MURRAY S. WEDER  
JACK L. LIPSON  
ARMISTEAD W. GILLIAM, JR.  
PETER K. ELFAKLEY  
ALEXANDER E. BENNETT  
JEROME I. CHAPMAN  
MICHAEL SCHNEIDERMAN  
DANIEL P. LEVITT  
NEID P. CHAMBERS

CABLE ADDRESS  
"ARFOP"

Mr. Ben F. Waple  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Mr. Waple:

This will refer to the Commission's Memorandum  
Action and Order, released September 4, 1968, granting  
consent to the transfer of control of Glenkaren Associates,  
Inc., licensee of Stations WCKA and WCKA-FM, Atlanta, Georgia,  
a partnership consisting of Strauss Broadcasting Company  
of Jere W. Thompson, d/b/a Strauss Broadcasting Company of  
Atlanta (File No. BTC-5530) and to the Commission's action  
of August 28, 1968, announced September 4, 1968, granting  
consent to the assignment of the licenses of WCKA and  
WCKA-FM to the above-mentioned partnership contingent upon  
the grant of the aforesaid application for transfer of  
control (File Nos. BAL-5630 and BALH-1092).

This is to advise the Commission that all steps  
necessary to consummate the transfer of control and  
assignment of licenses for WCKA and WCKA-FM, pursuant  
to the above-mentioned authorizations, were completed on  
September 6, 1968.

Very truly yours,

Reed Miller

BEST COPY

from the original

Item 2

PETITION OF THE CITIZENS COMMITTEE )  
 )  
 TO PRESERVE THE PRESENT PROGRAMMING )  
 )  
 OF THE "VOICE OF THE ARTS IN ATLAN- )  
 )  
 TA": WGKA - AM & FM for Reconsider- )  
 )  
 ation of the FEDERAL COMMUNICATIONS )  
 )  
 COMMISSION'S Decision Approving the ) FILE NO. BIC-5580  
 )  
 Sale of WGKA Radio and the Change )  
 )  
 of its format from Classical to Pop- )  
 )  
 ular Music, and For a Public Hearing )  
 )  
 to Determine WHAT IS IN FACT THE IN- )  
 )  
 TEREST OF THE LISTENING PUBLIC. )

#### I. STANDING

The Citizens Committee to Preserve the Present Programming of the "Voice of the Arts in Atlanta": WGKA-AM & FM, hereinafter referred to as Citizens Committee, is a duly authorized entity organized on the 20th day of September, 1968, and represents thousands of individual citizens, civic organizations, and businesses. It is composed of people from every walk of life in the broadcasting area of WGKA, and includes Doctors, Lawyers, Architects, Housewives, Students, Professors, and people from virtually every phase of American life. All members of the Citizens Committee have listened to WGKA - AM or FM (when available) and will continue to do so, so long as its format remains unchanged, since it is their only source of accessible classical music and keeps them advised of current local cultural events. The Citizens Committee believes

that the classical format of WGKA serves a vital educational and cultural purpose in the community and its continued existence is essential to the public's interest. All of the Citizens Committee members will suffer, are aggrieved and adversely affected by the decision of the Commission approving the sale and format change of WGKA.

Although this Citizens Committee has a much broader membership, it includes all those individuals (approximately 2,181 individuals) who wrote letters and/or signed informal petitions which were submitted to the FCC opposing the format change of WGKA. All these letters and petitions were unsolicited and represent the spontaneous reaction of WGKA's listening public. Until September 20, 1968, the WGKA public was not organized and was not cognizant of its legal rights or its possible procedural remedies. All of the abovementioned letters and informal petitions, which should be on file in the Commission office, are hereby incorporated as non-lettered, unnumbered Exhibits to this petition and demonstrate the identity, background and common sentiment of a portion of this Citizen's Committee membership. They also demonstrate why the action of the Commission was not in the public interest, or should have created at least that doubt necessary for the Commission to have held a public hearing. Attached to the original of this petition as Exhibit "A" is even another informal petition which is incorporated by reference in the accompanying 19 copies since duplication was not possible.

As to the standing of the Citizens Committee to seek a reconsideration, the Commission is respectfully referred to 47 U.S.C.A. §405; Joseph DeGrazia, Citizens Committee to Save WFMT - FM et al v. Federal Communications Commission et al, D. C. Cir. No. 21,873 decided July 30, 1968; and Office of Communication of the United Church of Christ v. Federal Communications Commission, 359 F. 2d 994 (D. C. Cir. 1966).

47 U.S.C.A. §405 states that "After an order, decision, report, or action has been made or taken in any proceeding by the Commission or by any designated authority within the Commission pursuant to a delegation under Section 155 (d) (1) of this title, any party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for rehearing...." (emphasis added).

In the case of Office of Communications of the United Church of Christ v. Federal Communications Commission, 359 F. 2d 994 (1966), the Court of Appeals for the District of Columbia held that responsible representatives of the listening public have standing as parties in interest to contest the renewal of a broadcast license.

In the case of Citizens Committee to Save WFMT - FM v. Federal Communications Commission, D. C. Cir. No. 21,873 decided July 30, 1968, standing was granted to members of the listening public in their attack upon the FCC approval of an assignment of a Chicago radio station. The District of Columbia Court of Appeals stated at page 6 of the opinion that: Moreover, Mrs. DeGrazia is en-

titled to consideration as a representative of the listening public. Such parties do not have the same sort of Washington representation to uncover threats to their interest, or deploy apparatus to combat them, as do parties whose interest is economic." Since there was no way for the Atlanta public to know that the FCC would approve a format change without a public hearing and without regard to over 2,000 letters or informal petitions, and since it was not organized as a group until September 20, 1968, it was not possible or practical for them to participate in the earlier stages of the proceeding.

## II. FACTS

On August 29, 1968 the public was notified that the FCC had approved by a 3-1 vote the sale of WGKA to the Strauss Broadcasting Company of Dallas and in so doing, approved a format change from classical to popular music. Approval was based upon a determination that such a change "accords with the public interest." This decision was reached without even conducting a public hearing.

At the time the decision was rendered the FCC had in its possession the personal unsolicited expression, through letter or informal petition, of approximately 2,181 Atlantans, who were but a few of those constituting WGKA's actual listening public, interested in its preservation, and passionately demonstra-



ting the public's interest and need for a classical radio station.

At this time Strauss represented to the Commission that 13 prominent Atlantans had indicated that such a change would suit the public interest.

These 13 individuals included:

1. A Fulton County Commissioner
2. A Chief of Police
3. The Vice-President of Littier, Neal, Battle & Lindsey
4. The Fulton County Superintendant of Schools
5. The President of the Rotary Club
6. The President of the Civitan Club
7. The President of the Trust Company of Georgia who is also the President of the Chamber of Commerce
8. A Methodist Pastor
9. A Catholic Reverend
10. A Jewish Rabbi
11. The Atlanta City Attorney
12. A Fulton County Sheriff
13. A Fulton County Civil Court Judge

The aid of these 13 individuals was solicited by the Strauss Broadcasting Company itself. All 13 men are either elected officials or in other positions where they stand to benefit directly or indirectly, financially or politically by alignment with those economically involved in the sale of WGKA. Obviously Strauss would only submit to the Commission the names of those who would sup-

port him. Could he only find 13 people in an area of over 1 1/2 million people?

Of the nine (9) FM radio stations in Atlanta, one (1) is educational, two (2) are standards, one (1) is top forty, one (1) is country and western, one (1) is popular, one (1) is religious, one (1) is popular and finance, and one, WCKA, is classical.

Of the twenty (20) AM Stations, 17 are either popular or country and western; 2 are religious and only one, WCKA, is classical.

WCKA is the only AM and the only FM Classical Music station in the Atlanta area. There is a very large classical music listening public in the Atlanta area. The approved change of format means the need of accessible classical music to the Atlanta area public.

### III. RECONSIDERATION AND A PUBLIC HEARING

The Commission chose to hang its hat upon the representations by Strauss concerning the statements of 13 handpicked, solicited, and economically or politically biased or pressured individuals that the absence of classical music in the Atlanta area is in the interest of the listening public.

Simultaneously, the Commission ignored the 2181 unsolicited spontaneous expressions of interest by the listening public itself.

Meanwhile, the statements of the 13 individuals were uncorroborated by extrinsic verification. Were

these 13 part of the listening public? What information did they base their statement upon? Were any field surveys made? How do they know what the public wants and needs?

Certainly this is a circumstance in and of itself which requires a public hearing.

Strauss, by the way, is a Texan and is not familiar with the Atlanta public. Furthermore, many representations Strauss made to the Commission were based upon his Texas experiences. We are not here dealing with a general public of Texans.

As the United States Court of Appeals for the District of Columbia Circuit has stated in a similar case:

"The Communications Act requires the Commission to designate an application for hearing if a substantial and material question of fact is presented or if the Commission is unable, for any reason, to find that the public interest, convenience, and necessity would be served by granting the application. The public welfare requires the Commission to provide the widest possible dissemination of information from diverse and antagonistic sources and to guard against undue concentration of control of communications power. The Act expressly prohibits assignment of a broadcast license except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby." Joseph DeGrazia, Citizens Committee to Save WFMT - AM v. Federal Communications Commission, D. C. Cir-

cuit, decided July 30, 1968, Case No. 21,873 at pp. 7 and 8; See also 47 U.S.C.A. §309 (e) (Supp. 1967).

Certainly it is common knowledge that individuals have different opinions as to what type music they enjoy. Classical music is not everyone's "cup-of-tea", and although the Citizens Committee knows that a substantial number of people in this area strongly favor and support WGKA's classical format, it does not assert that all or even a majority of Atlanta area citizens listen to it exclusively. It should be made clear that this is not what is at issue in determining whether WGKA's format change is in the public interest. Whether a majority of the citizens favor the change is immaterial and would only be significant if it were the only radio band serving the area.

Atlanta is saturated with numerous radio stations licensed by the FCC. In a large listening public area where 20 AM stations exist, there should be, and were before the Commission's decision in this matter, enough different formats that by a turn of the dial each listener of the public should be able to select that type of music and program he desires to hear.

If a majority of the general public favored popular music, and the format of each station were determined by the interest of the majority, Atlanta would have 20 stations with identical formats, which by the way, is essentially what will happen if this decision is sustained.

The diversity of program format in an area blessed with many stations presents the ideal situation and truly is in the best interest of the public as a whole.

It cannot be disputed that a classical music format presents an educational opportunity to the general public. The Citizens Committee is surprised, in view of the Commission's apparent recent concern over the educational opportunities afforded to the public through mass media, that it should decide that eradication of the classics accessible to the public is in the public's interest. The public deserves a choice!

The Citizens Committee wishes to further note that, in order to appease the public somewhat, Strauss has represented that the format on the FM Station will remain the same. However, few people have FM radios and even fewer have them in their automobiles. Furthermore, Strauss has also changed the FM Format so that commercial breaks will occur every 10 minutes in the daytime and every 15 minutes in the evenings. How many symphonies, how many operas, and how many other great works can be played and enjoyed in 10 minutes?

Certainly a substantial and material question of fact has been presented: Is it in the public interest to eradicate accessible classical music in the Atlanta area?

The Federal Communications Commission was created as a protectorate for the interest of the general public. The Citizens Committee maintains that if a public hearing is granted in this matter it can demonstrate beyond doubt that the interest of this listening public demands the retention of a classical music format. The Citizen's Committee further maintains that if the Commission does not grant a hearing, it will have completely ignored this

public's interest and every citizen in the Atlanta area of his or her right to a free choice of radio entertainment and educational as well as cultural benefits.

For all of the above reasons the Citizens Committee respectfully requests that the Commission reconsider its decision and grant a public hearing in this matter. It is further requested that a hearing examiner be sent to Atlanta in order that the hearing take place in the actual area involved. This would be more convenient for all of the parties concerned.

The Citizens Committee further requests that the Commission stay the effectiveness of its decision pending a decision on this petition for reconsideration and for a public hearing.

Dated This \_\_\_\_\_ Day of \_\_\_\_\_, 1968.

Respectfully submitted,

---

HENRY ANGEL  
Attorney for the Petitioner,  
Citizens Committee To Preserve  
The Present Programming of the  
"Voice of the Arts in Atlanta":  
WGKA - AM & FM

WOODRUFF, SAVELL, LANE & WILLIAMS  
707 Healey Building  
Atlanta, Georgia 30303  
404-521-1222



CERTIFICATE OF SERVICE

This is to certify that I have this day served the party at interest, Strauss Broadcasting Company of Atlanta, with a copy of the foregoing matter by depositing same in the United States Mail correctly addressed, to its last known address, with sufficient postage thereon.

This \_\_\_\_\_ day of \_\_\_\_\_, 1968.

\_\_\_\_\_  
HENRY ANGEL  
Attorney for Petitioner

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of

GLENKAREN ASSOCIATES, INC.  
(Transferor)

and

STRAUSS BROADCASTING COMPANY  
(Composed of Robert Strauss,  
Theodore Strauss, and Dan Hayslett)  
Which Will Own 66 2/3% of the stock,  
and Jere W. Thompson, Who Will Own  
The Remaining 33 1/3%, d/b/a  
STRAUSS BROADCASTING COMPANY OF ATLANTA  
(Transferee)

For Transfer of Control of 100% of the  
Stock of Glenkaren Associates, Inc.

Licensee of Stations WGKA and WGKA-FM,  
Atlanta, Georgia

FILE NO. BTC-5580

For Action By: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

Strauss Broadcasting Company of Atlanta, by its  
attorneys, hereby opposes the petition of the "Citizens  
Committee to Preserve the Present Programming of the Voice  
of the Arts in Atlanta: WGKA-AM & FM" for reconsideration  
of the Commission's Memorandum Opinion and Order, released  
September 4, 1968 (FCC 68-890, 20172) granting the above-  
captioned application for the transfer of control of the  
licensee of standard broadcast stations WGKA and WGKA-FM,

Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta. In support, the following is represented:

A. Background Facts

1. The application of Strauss Broadcasting Company of Atlanta which is the subject of this pleading was filed with the Commission on March 5, 1968--seven months ago. Public Notice of acceptance for filing was released by the Commission on March 19, 1968 (Rept. No. 8258). Moreover, notice of the filing was published by WGKA in the Atlanta Journal and Atlanta Constitution, as required by the Commission's rules, on March 15, 16, 21 and 23, 1968. The notice was also broadcast over WGKA and WGKA-FM on March 14, 15, 16 and 17, 1968. Under Section 309(d) of the Communications Act of 1934, as amended, as implemented by Section 1.580(i) of the Commission's rules, a party in interest--such as Petitioner claims to be--could have filed a petition to deny the transfer application within 30 days after release of the public notice of the acceptance for filing of the application. However, no such petition to deny was filed with the Commission by Petitioner or any other party--either within the above-mentioned 30-day period or, indeed, prior to the Commission's grant of the application on August 28, 1968, some five months later.

2. However, commencing on or about May 6, 1968, a Mr. Dick Gray, the Television-Radio Editor for the Atlanta

Journal, whose publisher owns more than one-third of the stock of Cox Broadcasting Corporation (a publicly traded company) which is the licensee of Stations WSB, WSB-FM and WSB-TV, Atlanta, commenced the publication of a series of columns in the Journal in which the proposed music format of Strauss (which contemplated a mix of popular favorites, Broadway show tunes, musical standards and light classical music) was characterized as "loud", "background music" and "garbage". Mr. Gray exhorted and urged the listening public to complain to Strauss and to the Commission, urging the retention of the former all-classical music format of the stations. Attached are copies of Mr. Gray's columns (Ex. 1). Ultimately, his employer, the Journal, joined in his efforts with an editorial on May 11, 1968, urging the public to write to the Commission in protest of the proposed music format change. (See Ex. 2 attached.) Thereafter, some 2000 persons either wrote letters to the Commission or affixed their signatures to informal complaints in the nature of petitions, urging that the classical music format be retained. At least two of the latter, i.e., a letter of May 13, 1968 from David F. Rogers, and a letter of May 8, 1968, signed by George P. Macrenaris, et al.,--to both of which numerous signatures were appended--, showed on their face that copies were sent to the Atlanta

Journal-Constitution and to Mr. Dick Gray, Atlanta Newspapers, Inc.

3. Your respondent is informed and believes and therefore alleges, upon information and belief, that not one of the letters of complaint sent to the Commission pre-dated the newspaper campaign--or vendetta if you will--which was instituted by Mr. Gray and his publisher. Moreover, it is interesting to note that neither Mr. Gray nor his publisher suggested that the desires of classical music lovers be satisfied by the newspapers' affiliated Atlanta stations WSB-AM and FM. Indeed, after the Commission's grant of the transfer to Strauss, Mr. Gray, responding to a letter from a reader who questioned why the newspapers' affiliated stations did not use their air time for classical music, had the effrontery to state that while he had also criticized WSB's musical programs as "garbage":

"it would be naive to expect the strongest station in the market [WSB] to change its format just to make me and the city's other classical addicts happy." (Bracketed material supplied; see column attached as Ex. 3.)

4. During the course of the four months that followed the institution of the newspaper campaign against the change in format, Strauss filed two amendments to its application, explaining in detail the basis upon which it formulated its

proposals and supplying the memoranda of its community leader contacts with recognized leaders in various walks of life in Atlanta. Strauss' successful experience with its proposed format in Dallas and Tucson was also described as well as its familiarity with mass audience surveys by such eminent organizations as Louis Harris & Associates, Inc., which have confirmed that the varied music tastes of the broad community can best be served by, as Harris put it, "a carefully blended combination of old favorites, popular music and show tunes-- with a smattering of semi-classical music thrown in..."<sup>1/</sup>

5. In its Memorandum Opinion and Order, released September 4, 1968, of which Petitioner now seeks reconsideration, the Commission specifically alluded to the some 2000 informal complaints which followed the newspaper campaign and stated that it had "considered carefully the concern expressed" therein. However, the Commission recognized the principle that where a licensee establishes through surveys and other methods that its proposed programming would serve the needs and interests of the people in its market, the matter of program format is properly left to the judgment of the licensee and the Commission "cannot properly insist" that another, different format be followed. The Commission specifically found

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<sup>1/</sup> "A Study of the Radio Program Needs and Preferences in the Area Served by Station KRLA", March, 1964, Louis Harris & Associates, Inc.



in haec verba that Strauss' over-all proposal would serve the public interest and that no hearing was required.

B. Petitioner's Standing

6. The Citizens Committee petition attempts to bring its standing within the framework of the Court's holding in Joseph DeGrazia, Citizens Committee to Save WFMT-FM, et al. v. Federal Communications Commission, et al., (D.C. Cir., No. 21873, July 30, 1968) in which a Mrs. DeGrazia was held to have standing as a member of the listening public. There, as here, the petitioner had failed to file a pre-grant petition to deny under Section 309. However, the Court sympathized with Mrs. DeGrazia because "[s]uch parties do not have the same sort of Washington representation to uncover threats to their interest, or deploy apparatus to combat them, as do parties whose interest is economic." In the instant case, however, unlike the situation in DeGrazia, the effort to block the transfer application was originally instituted and carried through by a representative of the Atlanta Journal-Constitution, and editorially by its publisher, who controls the only newspapers in the market and, to use Mr. Gray's words, the "strongest station in the market". Thus, the interest of those who initially mounted and ran the campaign was clearly economic. Moreover, WSB-AM and FM are represented by able

Washington communications counsel who are thoroughly familiar with the requirements of the Communications Act and the Commission's rules with respect to the necessity for filing a pre-grant petition to deny.

7. Strauss is aware, of course, that WSB-AM and FM do not claim to be members of the Citizens Committee. Nor is it clear whether Mr. Gray or other representatives of the Atlanta Journal-Constitution count themselves among its membership. Indeed, insofar as the Petition goes, there is no specific individual named as a part of the organization. This fact, coupled with the circumstances to be detailed below, raise serious questions as to whether this "Citizens Committee" is a responsible representative of the listening public whose standing should be recognized.

8. Page one of the Citizens Committee petition alleges that it is "a duly authorized entity organized on the 20th day of September, 1968, and represents thousands of individual citizens, civic organizations, and businesses." It professes to be composed of doctors, lawyers, architects, housewives, students, professors and others. It blithely alleges that "all members" of the Committee "have listened to WGKA-AM or FM ... and will continue to do so" so long as the format remains unchanged. Page 2 solemnly represents to the Commission

that although it has a much broader membership, the Committee:

"includes all those individuals (approximately 2,181 individuals) who wrote letters and/or signed informal petitions which were submitted to the FCC opposing the format change of WGKA. All these letters and petitions were unsolicited and represent the spontaneous reaction of WGKA's listening public." (Emphasis supplied.)

These allegations, made in the face of the Commission's own findings in the Memorandum Opinion and Order that the wave of letter complaints followed the urging of the newspaper columnist Gray to complain to the Commission, and the fact that the newspaper's editorial not only urged such complaints but provided the reader with the Commission's address, represent, if not a deliberate attempt to mislead the Commission, a bold disregard for candor. Particularly is this so when one considers the chronology of the recent events by which the petitioner was organized.

9. The petition alleges (page one) that the Committee was formed on September 20, 1968. The petition itself was dated and filed September 24, 1968. Yet, the Committee's first organizational meeting to which members of the public were invited and at which officers were elected occurred on September 27, 1968, three days after the petition was filed. The petition (dated September 24, 1968) tells us that the Committee's membership is even broader than the some 2000

people who wrote letters to the Commission. Yet, only 52 persons attended the organizational meeting of September 27, 1968, three days after this broad allegation was formally lodged with the Commission. Moreover, these 52 people decided on September 27th that all of the 2000 who had written letters should be considered members of the Committee and that they should thereafter contact the 2000. (Attached hereto as Ex. 4 is the affidavit of Mary Kent Newell, in support of the above allegations.)

10. Thus, it is apparent that when the petition was filed the Committee did not, in fact, consist of the 2000 persons who had complained to the Commission, much less the "broader membership" alleged in the petition. Nor did any of the 2000 letters represent "unsolicited ... spontaneous complaints as alleged.<sup>1/</sup> The petition's allegations of standing are thus misleading and subject to question. Assuming, however, that standing may be attributed to petitioner, the remaining portions of this response will be directed to the "merits" of the petition.

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<sup>1/</sup> Lest Strauss' position be misunderstood, Strauss does not doubt that some undetermined number of the complaints were unsolicited and spontaneous, nor does Strauss intend to impute lack of candor or good faith to the many Atlanta citizens who have voiced their views in behalf of classical music. What Strauss does contend is that the Committee's leadership has permitted representations to be made to the Commission, purportedly in behalf of and with the knowledge of these many citizens when, in fact, it appears that only a handful could possibly have been apprised of this action.

C. The "Merits"

11. Little need be said as to the merits of the Citizens Committee's petition for reconsideration. Apparently, the basic thrust of the petition is that the Commission, in granting the transfer application, relied upon Strauss' survey of community leaders which the Petitioner alleges were "all ... either elected officials or in positions where they stand to benefit directly or indirectly, financially or politically by alignment with those economically involved in the sale of WGKA." (Petition, p.5, emphasis supplied.) The petition goes on to describe these community leaders as "handpicked, solicited, and economically or politically biased or pressured individuals..." (Petition, p.6). It is indeed incredible, if not shocking, that a group of supposedly responsible and well-educated citizens, such as Petitioner claims its members to be, would stoop to the charge that a Methodist Pastor, the Chancellor of the Catholic Archdiocese of Atlanta, a Jewish Rabbi, the Chairman of the Board of the Trustees of Emory University, a Judge of the Civil Court, the President of the Rotary Club, the Sheriff of Fulton County, the President of the Atlanta Chamber of Commerce, the Fulton County Superintendent of Schools, the President of the Civitan Club, the Chief of Police and a County Commissioner

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provided Strauss with their views as to community needs because they were all in "positions where they stand to benefit directly or indirectly, financially or politically" by so doing. Strauss feels certain that the great bulk of those citizens who were "incorporated by reference" into the Committee's membership had no knowledge that such unwarranted and irresponsible charges would be made by the Committee's leadership against respected clergymen, public servants and civic leaders of Atlanta.<sup>1/</sup>

12. The Petitioner attempts to fault Strauss for having "solicited" the views of community leaders. Apparently the Petitioner is unaware of the Commission's long standing policy requirement that broadcast applicants solicit such views. Indeed, as the Commission is well aware, Section IV

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<sup>1/</sup> Indeed, Strauss believes the good citizens of Atlanta would be shocked and disappointed if they look to certain of the staff of their only newspaper as any reflection of their dignity. Attached hereto as Ex. 5 is a letter, dated September 16, 1968, from Mr. George F. Dillman of Dallas, Texas, to the Editor of the Atlanta Journal and a copy of a reply (Ex.6) to Mr. Dillman from Mr. Eugene Moore, Editorial Associate of the Atlanta Journal. Mr. Dillman's letter is a responsible, respectful document which points out that Robert Strauss was instrumental in Dallas' successful campaign to raise \$3.5 million for the Dallas Symphony Orchestra; that Ted Strauss is chairman of the Texas Fine Arts Commission while his wife has served as President of the Women's Symphony League. Mr. Dillman concedes in his letter that he is a personal friend of the Strauss brothers. Yet, the Atlanta Journal's "reply" is to the snide effect that being a "good...citizen of Dallas" is nothing to be proud of because "[a]s a city, Dallas is a wart." Mr. Moore's vocabulary and sensitivity seems akin to that of his columnist-associate, Mr. Gray, who leans to the word "garbage" to express his thoughtful views.



of its application form requires the applicant to identify the groups, interests and organizations consulted. Moreover, as late as August 22, 1968--just a few days before the grant of the Strauss application--the Commission issued its Public Notice, 19880-B, FCC 68-847, entitled "Ascertainment of Community Needs by Broadcast Applicants" which was promulgated "to provide broadcast applicants with a better understanding of the showing called for in response to Part I, Section IV-A and IV-B, the programming sections of application forms." The clear-cut emphasis of the Notice was upon consultation with community leaders. Said the Commission:

"Part 1, Question 1.A., requires consultation with leaders in community life -- public officials, educators, religious, the entertainment media, agriculture, business, labor, professional and eleemosynary organizations, and others who bespeak the interests which make up the community. Report and Statement of Policy Re: Commission En Banc Program Inquiry, 20 RR 1902."

13. In addition to a complete misconception of the Commission's requirements in regard to consultation with community leaders, the Petitioner has also misconceived the nature of a petition for reconsideration. The petition presents absolutely nothing which was not before the Commission when it acted upon the Strauss application. It simply parrots and reiterates that a large number of Atlantans wrote complaints

to the Commission in regard to the change in format and then charges the Commission with ignoring them--this in the face of the express finding by the agency in its written decision that it had "carefully considered" them. The DeGrazia (WFMT) case, supra, cited by Petitioner in support of its position, provides no sustenance to Petitioner. There, the Court held that the Commission had failed to demonstrate that it had followed the dictates of the statute which, said the Court, requires the Commission to make a finding in haec verba that the grant would serve the public interest. No Memorandum Opinion and Order discussing the merits of the application and the complaints against it was issued by the Commission in DeGrazia. Here the Commission rendered a written decision in which it weighed the application and the complaints, recited its reasoning for the grant, and made the express <sup>1/</sup> finding that such grant was in the public interest. Petitioner has come forth with no new facts or circumstances which could possibly provide the basis for undoing that determination upon reconsideration.

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<sup>1/</sup> The petition also contends that where a community is served by numerous radio signals, at least one should be "all classical music." The Commission has never and should never dictate the precise programming use to be made of a particular commercial frequency so long as the service proposed to be provided will serve the public interest. To do so would constitute unconstitutional threshold censorship.

D. The Request for Stay

14. Petitioner's request for stay stands upon even thinner ground than its plea for reconsideration. The Petition alleges no good cause for a stay, fails to demonstrate irreparable injury to itself or the public or that Petitioner is likely to succeed on the merits. It is wholly devoid of the necessary elements for a stay as recited by the Court in Virginia Petroleum Jobbers Association v. Federal Power Commission, 104 U.S. App.D.C. 106, 259 F.2d 921 (1958). Moreover, the transfer of license has been consummated pursuant to Commission consent and Strauss is now engaged in operating the stations in question. Strauss proposes to provide the public the excellent music format promised in its application. Recognizing the expressed interest of the some 2000 persons who advocated retention of the classical music format, Strauss will, at the outset, emphasize such music on WGKA-FM, particularly during evening hours, while still providing a mix of popular favorites and Broadway hits. The AM and FM will not be duplicated, as was the case under former ownership, thus providing two new music services to the public. Strauss will continue to survey the needs of its listening area, both through community leader contacts

and listener surveys. Should these surveys dictate changes in the format of either the AM or FM, whether for or against more classical music, Strauss will respond accordingly and so advise the Commission. This is what Strauss understands its licensee responsibility to be to the Commission and to the public--a responsibility it intends to discharge.

WHEREFORE, the petition for reconsideration, for hearing, and for stay should be forthwith denied.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY  
OF ATLANTA

By: \_\_\_\_\_  
Reed Miller  
Arnold & Porter  
1229 - 19th Street, N.W.  
Washington, D.C. 20036  
Its Attorneys

Dated: October 9, 1968

Monday  
May 6, 1968  
THE ATLANTA  
JOURNAL

# Listeners Learn WGNA Change

EXHIBIT 1

By DICK GRAY  
Journal Television Editor

Nothing hits a person in the guts any harder than the discovery that his favorite radio station is going to change its format. People tend to like radio formats, and they discover that they aren't going to be able to listen to their favorite type of music any more.

Since the Atlanta Symphony just completed a successful season, and since the Metropolitan Opera invades Atlanta tonight for its annual week-long stand, this seems a very appropriate time to discuss the catastrophe that is looming in the Atlanta world of radio.

It's not going to be a catastrophe to some people -- who will continue to go blithely through life snapping their fingers to rock and roll, country-western and rhythm and blues, or turning their brains off to the insipid "background" music played by many radio stations.

BUT ONE segment of the music-loving public apparently is doomed to go through life -- at least until they leave town -- deprived of classical music on the radio.

In the past few weeks, the word has spread in Atlanta radio circles that WGNA -- long a refreshing island of classical music in the desert of loud noises and background bleatings -- has been sold and will have its format changed.

Nobody at the station will comment -- because the sale still has to be approved by the Federal Communications Commission. But it is true that the station has been sold to Strauss Broadcasting of Dallas, Texas.

The rumors have it that the new owners will convert WGNA - AM to a "popular music" station, popular music in this case meaning background-type music. The FM part of WGNA reportedly will remain classical, but that has not been confirmed.

Now if there is anything Atlanta deserves, it is a station that plays background music. We have enough of that kind of music -- especially since 1961 -- that many people who couldn't stand to listen to it a year ago are now listening to it over the air.

ALSO, it is true that the FM part of WGNA is a classical music station. Who are the people who are disappointed by the fact that

WGNA is not a classical music station? They are the people who are disappointed by the fact that

Edward J. Hall Jr., former Atlanta writer.

"I have read with great distress and disappointment that the new owners of WGNA (Strauss Broadcasting Corp., Dallas, Texas) plan to change the format of our only classical music station to background music. If this situation could happen in a city like Atlanta, it is a disgrace."

"I feel that much more is at stake here than the change of format of a radio station. A classical music station is a reflection of the cultural life of a community -- a striking reflection of the station is forced to change to popular background music through the loss of its sponsor support."

"I urge you to read as who are made to us to be the Strauss Broadcasting Company in Dallas, Texas, the sponsor of WGNA's present program. It would also be wise to think about the sponsor's support of the station. Surely there are enough music lovers in a city of 1,000,000 to justify WGNA's continued existence in its present form."

I AGREE wholeheartedly with Mr. Hall's opinion, and I think that the only way to save the station in its present format -- if it is possible at all -- is to do as he suggests: write the new owners and thank the present sponsors, both through patronage and by letter or telephone.

Address of the head of the Strauss organization, for those who want to try to convince him that Atlanta does need and will support a classical station is:

Robert Strauss, Strauss Broadcasting Corp., 1211 South Alameda, Dallas, Texas.

Let's hope it helps. I sure would hate to have to live a life of background music for all the people in town.

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Another British Spy Series  
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6. *Conclusions*

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1. The first step in the process is to identify the problem. This involves gathering information about the situation and understanding the needs of the stakeholders involved.

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If you find a person who knows, write him or her a letter to Steve, or to me — or to the TV station, which runs in Steve's name. If I find a person who I'd like to see on the show, I'll write him or her, too, so I can get a head start on the show.

In writing the letter, please include your name, address, and phone number.

Mr. [redacted]  
Federal Commission  
[redacted]  
[redacted]

# Campaign Techniques Lured: Aretha and Gloria Sing

By DICK GRAY

Journalist writes on Radio Editor

WSD-TV will telecast the finale of the Mrs. George Pageant tonight from 10 to 11 o'clock, which fails to tear me up very much. Meanwhile, the NBC News special which ordinarily would run on WSD will be running on WUPJ-TV—which looks like another coup for Channel 17.

The NBC special is entitled "American Profiles: Somehow It Works." It is billed as "an affectionate, playful review of American political campaign techniques from George Washington's day to the present."

With the race for the presidency gathering steam now, and with a lot of candidates using a lot of methods to pursue their lofty goals, this review should be quite interesting.

NBC NEWS correspondent Edwin Newman serves as reporter for the show—which will utilize historic motion picture and TV film, prints, cartoons and memorabilia to explore campaign techniques down through the years.

Mr. Newman says: "Politicians put themselves into grotesque and ridiculous positions to meet a particular requirement of American politics—to show that they are down to earth, have natural common tastes, and can be trusted to do what the common man would like."

"This is part of democracy; at any rate, part of our democracy. It has something to do with equality, or the outward appearance of it."

Tonight's night there is a particularly interesting

special scheduled for 9:30 to 10:30 on WQXI-TV. For followers of the latter type of pop music, it should be interesting and entertaining.

It is "The Singers: Two Profiles," an ABC News special examining the lives and careers of Aretha Franklin and Gloria Loring—the pop singers of different races, different backgrounds and different styles, who are in different stages of their careers.

Miss Franklin is a full-fledged star in the "soul singing" category. Personally, I think she's great—and from the way her records are selling, I am not alone.

Miss Loring, who caught the quick eye and ear of Alvin Karpis, who bought her first record, and appeared in this city in the Paramount Picture "Pardners" nightclub a few years ago, is a striking blonde who is rising like a star in the world of show business.

ABC News describes the show as "a bold, distinctive and contrasting profile of two female vocalists... spotlighting the dynamic careers and contrasting living and performing styles of the two singers."

**MOVIE RADIO:** I have a little more to report on the imminent sale of WCKA-R due to Strauss' broadcasting of Dallas. The letters and cables of letters are coming in, so I know many people are concerned.

First, an application has

been filed to change the station's call letters to WCKA (AM and FM). I don't know whether you'd prefer to call it "Way," "Wee" or "Whee," but that's the word.

Also, I got telephone calls from both Robert Strauss and his brother-in-law, Fred Strauss yesterday. They are worried about the story letters they are getting, and somewhat upset by my columns on the subject.

I assured them that there is nothing personal in what I have written—aside from the fact that I personally like classical music and personally feel that Atlanta should have a radio station of that nature.

It is immaterial to me who owns it or what station it happens to be. If the controversy over the WCKA sale can make it easier for another brave soul to create a classical station, I'll be happy to cheer and to back support—I will be happy.

**BOTH THE STRAUSS BROTHERS** asked that I print columns I am delighted to do so, that they are responsible for the state of their community and want to be the same here.

Robert Strauss said: "We think we'll make a contribution to the community (Atlanta). We're really very decent people, with fine backgrounds and education. We hope to remain in the ranks of the community."

He also said: "There will be classical music in our format." He even added that they haven't decided much on what to call it yet. 1M, AM or both.

**FRED STRAUSS**, vice chairman of the First American Council on Education, said:

"I don't want to be a

member of the First American Council on Education, and the community is better for having had it. We want to be part of the community and contribute to it."

I should like to see

the same thing and I hope to do it. I hope to do it. I also think that Atlanta should have a radio station of that nature.

## Where Have You Been For 11 Years?

1990-1991

On the 11th day of the month of June, 1900, the following was received from the Hon. Secretary of the Interior:

[illegible]

There is a large body of research on the effects of the environment on the development of children. The research has shown that the environment can have a significant impact on a child's physical, cognitive, and emotional development. The environment can also influence a child's social skills and behavior. The research has also shown that the environment can have a significant impact on a child's health and well-being. The research has also shown that the environment can have a significant impact on a child's learning and achievement. The research has also shown that the environment can have a significant impact on a child's self-esteem and self-confidence. The research has also shown that the environment can have a significant impact on a child's social skills and behavior. The research has also shown that the environment can have a significant impact on a child's health and well-being. The research has also shown that the environment can have a significant impact on a child's learning and achievement. The research has also shown that the environment can have a significant impact on a child's self-esteem and self-confidence.

[illegible]

The following table shows the results of the regression analysis for the dependent variable "Number of children in the household" (N = 1,000). The independent variables are "Age of the head of household" and "Gender of the head of household". The table includes the coefficient, standard error, t-statistic, and p-value for each variable.

Variable	Coefficient	Standard Error	t-statistic	p-value
Age of the head of household	0.001	0.001	1.2	0.23
Gender of the head of household	-0.05	0.02	-2.5	0.01

**THE UNIVERSITY OF CHICAGO**

They are in the state of  
 law — which is the only one  
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There are a number of reasons why the use of the word "change" is not appropriate in this context. First, the word "change" implies a permanent or significant alteration, which is not necessarily the case here. Second, the word "change" is often used to describe a process or a transition, rather than a specific action or event. Third, the word "change" is often used to describe a change in direction or a change in focus, which is not necessarily the case here. Finally, the word "change" is often used to describe a change in a person's behavior or attitude, which is not necessarily the case here.

The following are some of the most common types of errors found in the manuscript:

- 1. The first sentence of the introduction is missing.
- 2. The second sentence of the introduction is missing.
- 3. The third sentence of the introduction is missing.
- 4. The fourth sentence of the introduction is missing.
- 5. The fifth sentence of the introduction is missing.

[illegible][illegible]

to build and support a civilian radio station.

"NOW THAT it probably is too late to save classical radio in Atlanta, classical music listeners, many of whom are members of this influential business community, are vowing to challenge listeners to 3% share of the FCC and the private owners.

"We have only one question for the people: 'Where have you been for 11 years?'"

"The complaint should have been filed years ago, and they should have been put in mind, sent to court, to get a ruling on it," says George J. Glick, Jr., of the Federal Communications Commission, "to get the case going, and to get the case going, and to get the case going."

1. WANTS TO BE A  
 2. TO BE A  
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 7. TO BE A  
 8. TO BE A  
 9. TO BE A  
 10. TO BE A

[illegible]

1. 2000年12月1日，甲企业向乙企业销售一批商品，售价为10000元，增值税税额为1700元，该批商品的成本为6000元。乙企业于2001年1月10日收到该批商品。

tions industry. It took the fact that WGN-TV was being sold to alert the people to the possible loss of the city's only local station.

IN ALL, he says, I don't expect a miracle to occur. I don't expect Strom Thurmond to say, "Gee, you people are right, we're strictly to classical music—whether we make it or not."

[illegible]

1. The first step is to identify the problem. In this case, the problem is that the company is not meeting its sales targets.

1. 1990年12月15日，在“中国—东盟”领导人非正式会议上，中国领导人正式提出建立中国—东盟自由贸易区。

2000

266

[illegible]

... ..

COV. MINISTERS, according with the path toward peace, reform is disappointing. While the extent of this does not mean more war, and the protesters, he did promise reform when he entered the office, and he promised loudly and long.

In fact, the leader continues to press for reform. His most recent gambit was to stir up a different panic that the toll has risen in women with the prisons. This information, the governor declares, will be translated to action.

We were under the impression that the Department of Commerce' over investigation was to release us, return and that the study by professor Joseph Sturge was to bring a change, now day to Georgia prisons. We were wrong to hope.

GOV. MADDOX'S press chief, Joe Wiley Jr., drew up a draft opinion letter calling the "Dixie" for "rejection" and then Wiley pledged that it would be brought forth. Yet Mr. Madison's legislative leaders in Albany insisted a public relations ploy that was hopelessly inadequate. The General Assembly gave even the bland set of lines a hard 10 C. D.

No prison system as sprawling as Georgia's can be converted in a year or in a decade, but the first step must be made. The Fulton County Grand Jury recognized the need for a first step in its current present plans.

After a day of the investigation, the Senate said that there would be no further action on the matter, but that it is, unfortunately, the panel did not visit any more meetings. Council, and the Administration will be

IF IT COULD ever be achieved, it can go only in one way where the 100,000 camps, all 75 of them, are closed. The prisoners can go on to be separated from other prisoners in the country, the shared joys of the prison system. The state are said to have camps from six to seven and by the 10 state have the highest percentage of the state.

We are anxious to give still more to the  
 cause, but the all-around condition of the  
 Gov. of the State is such that it is not  
 possible to do so.

1. *Chrysomelids*

ANALYSIS OF THE DATA FROM THE 1990-1991 survey of the 100,000+ women in the study revealed that 10% of the women had a history of a sexually transmitted infection (STI) in the past 12 months. The prevalence of STI was higher among women who had a history of a sexually transmitted infection in the past 12 months (10%) than among women who had not (5%). The prevalence of STI was also higher among women who had a history of a sexually transmitted infection in the past 12 months (10%) than among women who had not (5%).

[illegible]

The FCC says that it has received information from customers of Sprint Nextel, Inc. that the company is using its own proprietary technology to track the location of its customers' mobile phones. The FCC says that it has received information from Sprint Nextel, Inc. that the company is using its own proprietary technology to track the location of its customers' mobile phones. The FCC says that it has received information from Sprint Nextel, Inc. that the company is using its own proprietary technology to track the location of its customers' mobile phones.

A city with two major sports teams and its school teams on the city hall for every 24 hours is a beautiful city.

[illegible]

The following information was obtained from the  
 files of the Bureau of the Census, Department of  
 Commerce, Washington, D. C.

1. \_\_\_\_\_

THE ABOVE BOARD shall have the right to elect a sub-committee of not less than three and not more than five members to carry out the duties of the board and to report to the board at such times as the sub-committee shall deem proper.

THE GROUPS are divided into three categories: basic, intermediate and advanced. The basic group is for those who have no previous experience of the game. The intermediate group is for those who have played the game for a few years. The advanced group is for those who have played the game for a long time. The groups are divided into three categories: basic, intermediate and advanced. The basic group is for those who have no previous experience of the game. The intermediate group is for those who have played the game for a few years. The advanced group is for those who have played the game for a long time.

[illegible]

the 1990s, the number of people in the world who are illiterate has increased from 1.2 billion to 1.5 billion. The number of illiterate people in the world is projected to reach 1.7 billion by the year 2015. The number of illiterate people in the world is projected to reach 1.7 billion by the year 2015. The number of illiterate people in the world is projected to reach 1.7 billion by the year 2015.

[illegible]

The following is a list of the names of the persons who have been elected to the office of Justice of the Peace for the year 1900, in the several precincts of the County of Los Angeles, California, at the general election held on the 2nd day of November, 1900.

THE UNIVERSITY OF CHICAGO

1. The first group of people who are interested in the study of the history of the United States are the people who are interested in the history of the United States.

The thought for the week: Just as problems of today and tomorrow cannot be solved with answers of the past, opinions formulated in the past cannot be expected to stand up in the face of the present or future.

D. L. COOK.

Beautiful.—D. G.

#### ATLANTA:

Three years ago I was an avid TV viewer who stayed up nightly until 11 p.m. to enjoy the programs presented. Usually two to three nights a week the movies shown on the late shows were appealing enough to warrant my staying up and viewing them even on week nights. In my personal opinion, the regular programs and series now shown on TV appeal to me so much that I seldom turn it on. Even the wife and children now watch very little television. However, last night, Sept. 9, I was up until midnight watching TV. What prompted this? Kansas City vs. Houston; what else. In my opinion football is the number one attraction brought into the home by television. NBC has a motto which says, "More sports are presented on NBC than any other station." So I watch NBC more than any other station. My vote goes for NBC and for football.

MACK PORTER.

I'm not knocking the *Grande Ode Game of Football*, per se, the thought. But if that's the "number one attraction brought into the home by television," television is in severe trouble. So far, you're the only person I've heard from that hasn't agreed that the TV folks are overdoing it a little bit.—D. G.

#### COLLEGE PARK:

Is there anything we, "the young people," can do about getting "It's Happening" on later in the afternoon?

MARIE ENGLAND

All I can think of is to protest to WQXI-TV. I agree that the early afternoon time slot is silly—since the show is aimed at the younger set.

—D. G.

#### CEDARTOWN:

I am a firm believer in the right of expression and I believe you have expressed your opinion on the sale of WGKA in Atlanta, Georgia. But it amuses me since I am impartial (not living in the WGKA coverage area) that you have made no mention of The Atlanta Journal and Constitution affiliated station WSB AM-FM offering their "air time" for classical music. I would like to quote from *Broadcasting Magazine* Sept. 2, 1962, "Commission officials noted that there is no record as to why Mr. Gray has not urged an Atlanta Journal-related station to carry classical music." Since everyone is entitled to their own opinion, you should start respecting the Strauss

## Want to Write The Networks?

To aid those viewers who want to write the television networks—to express either praise or protest—here are the addresses:

ABC-TV — 1330 Avenue of the Americas, New York, N.Y. 10019.

CBS-TV — 51 West 52nd St., New York, N.Y. 10019.

NBC-TV — 20 Rockefeller Plaza, New York, N.Y. 10020.

Broadcasting Co. for their decision and respect the FCC for their ability to see this.

J. D. DAVIS

Apparently you're a better skeptic than you are a newspaper reader. I often have expressed the opinion that WSB Radio broadcasts a bunch of musical garbage, and I have said it would be nice if the station would at least program a little classical music to help us in our hour of need. But it would be naive to expect the strongest station in the market to change its format just to make me and the city's other classical addicts happy. The point of the whole uproar — since you seem to have missed it — is not that Strauss shouldn't broadcast whatever stuff it wants, but that it is unfortunate for the city to lose its only classical AM-FM station.—D. G.

#### ATLANTA:

It is my opinion that football is not over-exposed and personally feel that football is much more enjoyable than the crime and detective shows. Please cast my vote for football with NBC as per your request in Monday's paper.

JOHN K. HARDESTY.

Yours is the second vote for over-exposed football, and I think the first one came from the same office. Must be a plot.—D. G.

#### ATLANTA:

What happened to Joe Pyne's radio show? I observe it is no longer listed in the daily log. J. P. was one of the most exciting, informative programs since the actual inception of radio. Was it too deep or incomprehensible for much of our local aerial clientele? Too classical? Or to apply the common vernacular, too "long hair"? Something cost the show its popularity, and it, for a certainty, wasn't a shortage of quality or entertainment, humor, et cetera. ... Joe's Saturday night T.V. spot is magnificent; however, his network invariably replaces him every other week with an inferior substitute. Anything, or flimsy excuse to deprive the ambitious, the

eral  
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EXHIBIT 3

I'm  
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#### ATLANTA

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isn't Chann  
"Wild Wild  
favorite prog  
season I had  
on Channel  
didn't show  
just the TV  
Channel 12.  
person pr  
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tion — since W  
chosen to presen  
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ever, WJRJ-TV  
permission to sh  
ferent time. I'm  
ple at Channel  
to know how man  
show would like

#### ATLANTA:

I must agree w.  
liam Keheley in  
Mail Bag. Does  
think of us kids a  
like wrestling too  
said John Wayne  
most be as funn  
ting? Well it's not  
the Friday night n.  
and that dumb P  
nearly broke Lou  
arm. It WAS injurer  
Gray. I think you'r  
nice man and I lik  
your answers but if  
met "Ramon Torres"  
the greatest wrestler.  
two brothers you w  
like a sick cow! (I  
John Wayne!) Plea  
my letter so everyone  
stand up to defend v  
Long live it!

MELITTA BU

John Wayne says he  
look like a sick cow.

#### ATLANTA:

I enjoy puzzles, bu  
more than I can tak  
day, Aug. 24, I watch  
Prisoner." It was a go  
I had an extra hou  
nothing. I sat before t  
vision taking in ever  
and word. All puzzles  
key part that makes th  
fall into place. So with  
gram there has to be  
thing said or done to m  
viewer understand w  
going on. Never before  
watched a program to  
and ask myself what I

Sept. 11

BEST COPY  
from the original

STATE OF GEORGIA

COUNTY OF FULTON

(SS.:AFFIDAVIT)

Mary Kent Newell, being duly sworn, upon her oath, deposes and says as follows:

My name is Mary Kent Newell and I am a resident of Atlanta, Georgia.

On September 27, 1968, I attended an organizational meeting of the Citizens Committee to Preserve the Present Programming of the "Voice of the Arts in Atlanta on WGKA-AM and FM". The meeting had been announced in the newspapers and was open to the public. Approximately fifty two persons were in attendance, most of whom appeared to be age thirty or over. I attended a subsequent meeting of the same Committee on October 4, 1968. Only thirty two persons attended the latter meeting.

The September 27, meeting was opened by a Mr. Michael Humphries who gave a brief history of the WGKA transfer of license matter. He stated that a group of four people had joined in an effort take action, namely himself, a Mr. James Dougherty, Mr. Henry Angel (Attorney for the group) a Mr. Austin Katz (or Catts), a student.

An election of officers then took place. Mr. Humphries was elected Chairman, Mr. Dougherty was elected Vice Chairman in charge of publicity and two other Vice Chairmen and a Secretary were selected. It was then decided that all who had previously written letters to the Federal Communications Commission or who had signed petitions to the Commission were to be considered members of the Committee and should be contacted.

It was agreed that a more popular name for the Committee should be selected, "Broadcast Good Music Committee" was chosen.

A Mr. Gray noted that station WOMN now proposes to change its format to classical music. Mr. Angel observed that if this happened, the Committee's case against WGKA would be weakened.



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COUNTY OF FULTON

(SS.:AFFIDAVIT)

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Congressman James Mackay of the Fourth District (DeKalb County) offered his assistance and stated that he would contact the FCC personally upon his return to Washington about the Committee's Petition.

The balance of the meeting was devoted largely to a discussion of the legal aspects of the effort and to the collection of contributions to defray legal fees and publicity expenses.

By Mary Kent Newell

Subscribed and sworn to before me this 7<sup>th</sup> day of October, 1968.

Katherine K. O'Neil

Notary Public in and for the County of Fulton, Georgia.

Notary Public, Georgia, State at Large  
My Commission expires My Commission Expires Mar. 13, 1971

Notary Seal

GEORGE F. DILLMAN

POST OFFICE BOX 64784

DALLAS, TEXAS 75208

September 16, 1968

Editor  
The Atlanta Journal  
10 Forsythe Street Building  
Atlanta, Georgia

Dear Sir:

Recently I passed through Atlanta's air terminal. While there I had time to spare; I read two local newspapers. In reading them, I was at once surprised and dismayed:

Surprised to discover obviously unresearched and highly biased editorial references to two personal friends -- Robert S. and Theodore H. Strauss of Dallas, Texas -- and to their respected broadcasting company.

Dismayed to find in Atlanta's professionally respected dailies, a creditability gap between editorial content and the truth.

The personal criticism levelled at the Strauss brothers and the Strauss Broadcasting Company is unjust and undeserved. The greater harm, however, is done to thousands of citizens -- especially the good music lovers -- who are being sold a bill of goods by writers who obviously have no pity and whose prose is as empty as sounding brass and tinkling symbol.

In the idiom of today's under-30 citizen, let me tell it as it is:

First, when I returned from the trip which had taken me to Atlanta, I called Strauss Broadcasting and inquired about the controversy which had obviously been created over the application to acquire WGKA. I was informed that Strauss Broadcasting, upon contracting to acquire the Atlanta station, had solicited the advice and counsel of two nationally known symphony directors concerning ways in which it, (Strauss Broadcasting), might improve the quality of music programming for

WGKA. Acting on the advice received, Strauss Broadcasting committed significant funds for increasing the classical music library.

Second, any self-respecting Texas cowboy -- dead or alive -- would be appalled to find that he had been compared to the urbane, genteel, classical music loving Strauss brothers. Frankly, except for the names, it would be impossible for the closest of friends -- and for the most ardent listeners -- to recognize them or their company from the description provided by Atlanta's apparently self-proclaimed "cultural journalists."

Third, if Journal writer Eugene Moore meant to imply by his reference to "buck grabbing" that the Strauss brothers are profit-oriented, successful businessmen, he is indeed correct. On the other hand, if he meant to suggest that either these men or the company which they head, are lacking in good taste and have no sense of responsibility to the community in which they conduct business, Mr. Moore is either being malicious or is simply ignoring the facts.

Strauss Broadcasting is a good corporate citizen of Dallas.

The company's owners -- Robert S. and Ted Strauss -- give generously of their time and funds to the cultural development of their hometown and their home state.

Robert Strauss serves on the 3-member Texas State Banking Board. He had a major role in Dallas' successful campaign to raise \$3.5 million necessary to qualify the Dallas Symphony Orchestra as the nation's first recipient of a matching funds grant from the Ford Foundation. In brief, Robert Strauss is an active -- and highly effective -- leader and participant in educational, civic, philanthropic and cultural affairs.

Ted Strauss, dedicated patron of the arts, currently serves as chairman of the Texas Fine Arts Commission. His wife, Annette, was named Dallas' outstanding woman citizen for 1967, in recognition of her countless contributions to the social, cultural and civic life of her community. Her appreciation of and for good music was demonstrated, I believe, in her service as president of the Women's Symphony League.

At this point, it seems to me, that one fact is clear:  
The citizens of Atlanta should be proud of their new business  
citizens. The Strauss brothers -- and Strauss Broadcasting--  
deserve a hearty welcome, not condemnation.

Sincerely,

A handwritten signature in dark ink, appearing to read "George F. Dillman", with a long horizontal flourish extending to the right.

George F. Dillman

The Atlanta Journal  
*Covers Dixie Like the Dew*

EXHIBIT 6

AREA 404-JA 2-5050-BOX 4689-ATLANTA, GA. 30302

September 20, 1968

Mr. George F. Dillman  
P.O. Box 64784  
Dallas, Texas 75206

Dear Mr. Dillman:

I am sure that being a Texan you are not in the minority, but, Mr. Dillman, you are in error.

Strauss intends to scrap classical music programming on WGKA-AM. Period.

I don't doubt that the gentleman is as you say a "good . . . citizen of Dallas." I think if I were you I wouldn't pass the information around, however. As a city, Dallas is a wart.

Hi ho cowboy, partner.

Sincerely,



Eugene Moore  
Editorial Associate

EM:mc

Ok, for your information  
Geme

CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of October, 1968, sent a copy of the foregoing Opposition to Petition for Reconsideration by U.S. mail, postage prepaid, to the following:

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for Petitioner

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Margaret Cureton  
Margaret Cureton

Exhibit 11

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE		
TO PRESERVE THE PRESENT PROGRAMMING		FILE NO. BTC-5580
OF THE "VOICE OF THE ARTS IN ATLANTA": WGKA- AM & FM for Reconsideration of the FEDERAL COMMUNICATIONS COMMISSION'S Decision Approving the Sale of WGKA Radio and the Change of its format from Classical to Popular Music, and For a Public Hearing to Determine WHAT IS IN FACT THE INTEREST OF THE LISTENING PUBLIC.		
		AMENDMENT TO PETITION FOR RECONSIDERATION AND FOR A PUBLIC HEARING

AMENDMENT

The original petition of the Citizens Committee to Preserve the Present Programming of the "Voice of the Arts in Atlanta": WGKA-AM & FM for reconsideration of the Commission's Memorandum Opinion and Order, released September 4, 1968 (FCC 68-890, 20172) and for a public hearing is hereby amended to add a Part IV at the end thereof in accord with Title 47 CFR §1.65, since the information originally furnished is no longer substantially accurate in lieu of the newly discovered evidence attached to this amendment as exhibits and in lieu of Petitioner's continuing duty to advise the Commission of substantial changes as to matters of decisional significance.



PART IV

STRAUSS'S MISREPRESENTATIONS TO THE  
FCC REGARDING HIS  
"SURVEY OF COMMUNITY LEADERS"

In amendments to its original application, Strauss Broadcasting Company represented to the Commission that it made a survey of 13 Atlanta community leaders and intimated that these leaders felt the proposed program change from classical to popular music would serve the public's interest. The Federal Communications Commission relied upon this representation in granting said application for a program change. In the amendments to the application these 13 leaders were named and their official titles set forth. Strauss, in its opposition brief, has again relied heavily upon this survey and notes that such a survey is a policy requirement of the Commission and cites the Commission itself:

"Part 1, Question 1.A., requires consultation with leaders in community life--public officials, educators, religious, the entertainment media, agriculture, business, labor, professional and eleemosynary organizations, and others who bespeak the interests which make up the community.  
Report and Statement of Policy Re: Commission  
En Banc Program Inquiry, 20 R.R. 1902."

Certainly the importance of conducting such a survey should be equaled by concern for the circumstances under which it is conducted and the accurate reporting of its result.

The Petitioner herein has not to date been able to contact and interview each of the 13 community leaders who were the subjects of Strauss's survey. It has, however, interviewed several of them. Each of the 13 interviewed by Petitioner has related an entirely different account of their interview than that related by Strauss

to the Commission. Furthermore, in each instance to date, the individuals interviewed by Petitioner whose affidavits are hereto attached strongly assert that the retention of WGKA's classical music format is vital to the public's interest and that the proposed program change is not in fact within the public's interest.

Attached hereto as exhibits are the affidavits of the community leaders interviewed by Petitioner to date, each being one of the 13 cited by Strauss.

It should be noted that some of these individuals thought that the interview was nothing more than a social visit. Some recall stating that they listened to and enjoyed the classical music programming of WGKA.

On page 5 of Strauss's amendment to his original application filed with the Commission on May 17, 1968, Strauss stated the following to the Commission concerning his survey:

"In every instance, on the other hand, our plans were looked upon with favor and we were told that we would be providing a needed service to the community of a type not now being provided."

All of the individuals interviewed by Petitioner emphatically denied this statement as it relates to a change of format from classical to popular music.

Dr. Paul D. West, Superintendent of the Fulton County School System, states that:

"Some conniving individual or individuals has, or have, desecrated my name and principles for which I stand in all matters that relate to cultural interest and development. There is nothing else in our area which is more uplifting or more needed than is the present programming of 'The Voice of the Arts in Atlanta': WGKA -AM and FM."

It should be noted that the Sheriff of Fulton County passed away sometime in June, 1968, and an interview with him at this date would thus be impossible.

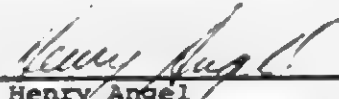
Petitioner expects, on the basis of the interviews already conducted, that the remaining community leaders would relate similar accounts.

Contrary to the allegations in Strauss's opposition brief, these affidavits in and of themselves present to the Commission facts which were not before the Commission when it acted, and creates an additional and most disturbing substantial and material question of fact directly in issue, and thus necessitates public hearing.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

By



Henry Angel  
Attorney for Petitioner

This is the affidavit of DR. PAUL D. WEST, Superintendent of Fulton County Schools, for use in the petition of the Citizens Committee to preserve the present programming of the Voice of the Arts in Atlanta, WGKA, AM and FM - File No. BTC 5580

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Dr. Paul D. West, being duly sworn, deposes and says that the following are excerpts from a letter addressed to Mr. Lucien Batson on October 4, 1968, and also says it is within the public interest that WGKA's present class of programming remain the same.

1. It is very gratifying to know that we have personnel in the Fulton County School System that has a deep spirit of loyalty to and consideration for the school administration. You and your lovely wife are in this category, and it makes the life of the Superintendent much pleasanter to be aware of your devotion to truth and principle.
2. You were indeed kind and proper in rising to your feet to protest any statement about my lack of appreciation of the Arts. Some conniving individual or individuals has, or have, desecrated my name and principles for which I stand in all matters that relate to cultural interest and development. There is nothing else in our area which is more uplifting or more needed than is the present programming of "The Voice of the Arts in Atlanta - WGKA, AM and FM."
3. If you feel that I need to take any steps to counteract what I deem an untrue and venomous approach to destroy something that is ennobling, please communicate with me.

  
Superintendent

Sworn to and subscribed before

me this 10th day of October, 1968



Notary Public, Fulton County, Georgia  
My Comm. expires March 18, 1970

EXHIBIT A  
20

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )  
TO PRESERVE THE PRESENT PROGRAMMING )  
OF THE "VOICE OF THE ARTS IN ATLANTA" ) FILE NO. BTC-5580  
WGA - AM & FM for Reconsider- )  
ation of the FEDERAL COMMUNICATIONS )  
COMMISSION'S Decision Approving the )  
Sale of WGA Radio and the Change )  
of its format from Classical to Pop- ) AFFIDAVIT  
ular Music, and for a Public Hearing ) of Walter M. Mitchell  
to Determine WHAT IS IN FACT THE IN- )  
TEREST OF THE LISTENING PUBLIC. )

Mr. Walter M. Mitchell, being duly sworn, deposes  
and says:

1.

That he is a Fulton County Commissioner.

2.

That sometime within the last year he was called *by phone*  
by someone representing ~~Georgia~~ Broadcasting Company.

3.

That he and his wife have been avid fans for several  
years of WGA's classical music programming.

4.

That he specifically recalls that in said conversa-  
tion he wholeheartedly endorsed the existing classical  
music format as it then existed and was under the impress-  
ion that said format would continue.

5.

That he does not recall ever being told of Strauss Broadcasting Company's plan to change the existing classical music format.

6.

That if he had been so informed, he would have, without hesitation, stated that he felt it was in the public's interest to continue the classical music format since it is the only such format in this area which is flooded by popular music stations.

7.

That if he were ever cited as endorsing Strauss Broadcasting Company's now proposed format change, such would be an outright misrepresentation.

8.

That he feels it is within the public's interest that WGKA's classical music format be maintained.

Walter M. Mitchell  
Walter M. Mitchell

Sworn to and subscribed before  
me this 16 day of Dec,  
1968.

Walter M. Mitchell  
Notary Public for the State of New York  
My Comm. Expires 12/31/70

EXHIBIT "B"



BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )	
TO PRESERVE THE PRESENT PROGRAMMING )	
OF THE "VOICE OF THE ARTS IN ATLANTA" )	FILE NO. BTC-5580
CALL: WCKA-AM & FM for Reconsider- )	
ation of the FEDERAL COMMUNICATIONS )	
COMMISSION'S Decision Approving the )	
Sale of WCKA Radio and the Change )	
of its format from Classical to Pop- )	
ular Music, and For a Public Hearing )	
to DETERMINE WHAT IS IN FACT THE IN- )	AFFIDAVIT
TEREST OF THE LISTENING PUBLIC. )	of Rabbi Jacob M.
	Rothschild

Rabbi Jacob M. Rothschild, being duly sworn, deposes and says:

1.

That he is the Rabbi at the Temple, Atlanta, Georgia.

2.

That within the last year someone came to his office representing Strauss Broadcasting Company and indicated that Strauss Broadcasting Company was a new organization in Atlanta and that the purpose of this visit was to get acquainted with the Atlanta community leaders and to let them know that this new organization was in town.

3.

That he understood this meeting to be of a purely social nature and that it was not intended for the purpose of expressing either an endorsement or an opinion as to the radio station's format.

EXHIBIT

4.

That he did not understand that anything he said would be used for any purpose at a later date in any proceeding and no such consent or permission was granted or implied.

5.

That he feels it is within the public's interest, and that the community has and would continue to benefit by the existence of WCKA's classical music format.

*Joseph M. Rothschild*  
Rabbi Jacob M. Rothschild

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_.  
1968.

\_\_\_\_\_

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )	
TO PRESERVE THE PRESENT PROGRAMMING )	FILE NO. BTC-5580
OF THE "VOICE OF THE ARTS IN ATLAN- )	
TAT: WCKA -AM & FM for Reconsider- )	
ation of the FEDERAL COMMUNICATIONS )	
COMMISSION'S Decision Approving the )	
Sale of WCKA Radio and the Change )	
of its format from Classical to Pop- )	
ular Music. and For a Public Hearing) )	AFFIDAVIT
to Determine WHAT IS IN FACT THE IN- )	of Henry Bowden
TEREST OF THE LISTENING PUBLIC. )	

Mr. Henry Bowden, being duly sworn, deposes  
and says:

1.

That he is the Atlanta City Attorney and Chairman  
of the Board of Trustees for Emory University.

2.

That approximately a year ago he was approached by  
someone connected with Strauss Broadcasting Company and  
spoke to him briefly about Strauss Broadcasting Company  
acquiring the radio station WCKA.

3.

That to the best of his recollection he was under  
the impression, due to said meeting, that the classical  
format of WCKA -AM & FM would remain unchanged.

4.

That he recalls stating in said meeting that he  
thoroughly enjoyed WCKA's classical music format and hoped  
that it would continue.

EXHIBIT "D"

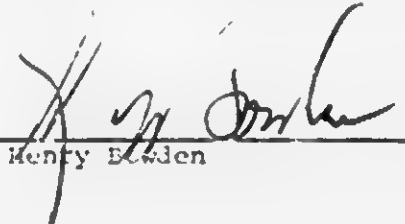
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5.


That if anyone ever represented that deponent felt a change in the format to popular music would serve the public's interest, said representation would be misleading and untrue.

6.

That he hopes WGKA -AM & FM's classical music format will be preserved since he deems it vital to this public's interest.

  
Henry E. Eaden

Sworn to and subscribed before  
me this 16<sup>th</sup> day of October,  
1968.

  
William M. Wade

Notary Public, Georgia, State at Large  
My Commission Expires Oct. 27, 1968

EX-107-871 "D"

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )  
TO PRESERVE THE PRESENT PROGRAMMING )  
OF THE VOICE OF THE ARTS IN ATLAN- ) FILE NO. BTC-5580  
TA: WGXA -AM 5PM for Reconsider- )  
ation of the FEDERAL COMMUNICATIONS )  
COMMISSION'S Decision Approving the )  
Sale of WGXA Radio and the Change )  
of its format from Classical to Pop- )  
ular Music, and For a Public Hearing ) AFFIDAVIT  
to Determine WHAT IS IN FACT THE IN- ) of Frank L. Carter  
TEREST OF THE LISTENING PUBLIC. )

Mr. Frank L. Carter, being duly sworn, deposes  
and says:

1.

That he is the past president of the Atlanta Rotary  
Club.

2.

That within the previous year he was contacted by  
someone purporting to represent Strauss Broadcasting  
Company and was asked questions concerning the radio  
station WGXA -AM.

3.

That to the best of his recollection, on that occa-  
sion he stated that he and his wife listened occasionally  
to WGXA and thoroughly enjoyed its then existing format.

4.

That to his best recollection and belief he does not  
recall having ever stated that a change in format from

EXHIBIT 60

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classical to popular music would be within the public's interest.

5.

That although he was president of the Rotary Club at the time, he did not have the power nor did he state that he was acting on behalf of the Rotary Club or any of its members, and he was purely approached as an individual citizen for his personal views.

6.

That it is his personal opinion that the retention of WGKA'S classical music format is within the public's interest and has served and would continue to serve an important educational and cultural function in the community.

Frank L. Carter  
Frank L. Carter

Sworn to and subscribed before  
me this 14 day of April, 1968.

Henry Public Georgia State at Large

Notary Public Georgia State at Large  
My Commission Expires Sept. 2, 1971

EXHIBIT "C"

PLEASE FILE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )  
TO PRESERVE THE PRESENT PROGRAMMING ) FILE NO. ETC-5580  
OF THE VOICE OF THE ARTS IN ATLANTA )  
THEY WOULD -AM & PM for Reconsider- )  
ation of the FEDERAL COMMUNICATIONS )  
COMMISSION'S Decision Approving the )  
Sale of WOPR Radio and the Change )  
of its format from Classical to Pop- )  
ular Music, and for a Public Hearing ) AFFIDAVIT  
to Determine WHAT IS IN FACT THE IN- ) of J. Robert Watson  
TEREST OF THE DISSENTING PUBLIC. )

Mr. J. Robert Watson, being duly sworn, deposes  
and says:

1.

That he was the President of the Civitan Club during  
the time Strauss Broadcasting Company's survey was made.

2.

That he recalls having a conversation with an agent  
of Strauss Broadcasting Company sometime within the past  
year.

3.

That he thought said conversation was purely of so-  
cial content and of a private nature.

4.

That he did not intend for anything he said or any  
opinion he expressed to be related to any third party,  
much less a federal administrative agency.

EXHIBIT "F"  
89

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5.

That in said conversation he recalls expressing his own individual views under circumstances which he thought were private and confidential.

6.

That he did not purport at any time to be expressing his view as to what the public's interest would be.

7.

That he resents his name being used and the contents of said meeting being cited absent his knowledge or consent and for the proposition that his views represent the views of the public.

Robert Watson  
J. Robert Watson

Sworn to and subscribed before  
me this 11 day of June  
1968.

Alvin G. [Signature]

EXHIBIT "F"

Item 13

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )  
TO PRESERVE THE PRESENT PROGRAMMING )  
OF THE "VOICE OF THE ARTS IN ATLANTA": WGKA -AM & FM for Reconsideration of the FEDERAL COMMUNICATIONS COMMISSION'S Decision Approving the Sale of WGKA Radio and the Change of its format from Classical to Popular Music, and For a Public Hearing to Determine WHAT IS IN FACT THE INTEREST OF THE LISTENING PUBLIC. )

FILE NO. BTC-5580

REQUEST FOR A STAY OF EFFECTIVENESS

The Petitioner hereby incorporates by reference its petition, its amendment to its petition, and its reply brief in support of this request and respectfully requests the Commission to issue an immediate stay of the effectiveness of its decision approving the program change of WGKA -AM and FM. Strauss Broadcasting Company of Atlanta is already beginning to change its format in total disregard to this petition and the public's concern, and the listening public will suffer irreparable deprivation of its enjoyment of accessible classical music.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

By Harry Angel  
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

\_\_\_\_\_, of \_\_\_\_\_, 19\_\_\_\_

707 Healey Building  
Atlanta, Georgia 30303  
521-1282

Rec. 12/26/66

Item 14

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of )

GLENKAREN ASSOCIATES, INC. )  
(Transferor) )

and )

FILE NO. BTC-5580

STRAUSS BROADCASTING COMPANY and )  
JERE W. THOMPSON, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(Transferee) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM, )  
Atlanta, Georgia )

For Action by the Commission: )

OPPOSITION TO "REQUEST FOR A STAY  
OF EFFECTIVENESS"

Strauss Broadcasting Company of Atlanta, (hereinafter "Strauss"), by its attorneys, hereby opposes the "Request for a Stay of Effectiveness" filed herein on October 18, 1968, by the "Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WGKA-AM & FM", (hereinafter the "Committee"). In support, the following is represented.

1. In its Petition for Reconsideration of the Commission's action granting consent to the transfer of

control and assignment of the licenses of WGKA-AM & FM to Strauss, filed by the Committee on September 24, 1968, the Committee requested a stay of the effectiveness of the Commission's order pending a decision of the Commission on the petition for reconsideration. Strauss opposed the Petition for Reconsideration on October 9, 1968. The Opposition pointed out that the Committee had failed to demonstrate irreparable injury to the Committee or the public and had otherwise failed to satisfy the necessary elements supporting a request for stay as set forth by the Court in Virginia Petroleum Jobbers Association v. Federal Power Commission, 104 U.S. App.D.C. 106, 259 F.2d 921 (1958).

2. On October 18, 1968, the Committee filed its Reply to the Strauss Opposition and, in addition, filed an "Amendment" to its Petition for Reconsideration. At the same time, it filed an additional "Request for a Stay of Effectiveness" in which it endeavored to incorporate by reference its petition for reconsideration, its "Amendment" to petition, and its reply to the Strauss opposition. Strauss intends to file a pleading directed to the so-called "Amendment" within the time permitted by the rules. Strauss' pleading will demonstrate that the "Amendment" is not properly before the Commission and is otherwise devoid of

merit. This pleading is directed to the new request for stay.

3. The new request for stay suffers from the same infirmities as the original request. None of the pleadings heretofore filed by the Committee attacks the legal, financial or other basic qualifications of Strauss as a licensee of this Commission. The sole gravamen of the charges is that Strauss should be required to retain the classical music format of the stations which was used by Strauss' predecessor. The Commission has rightfully and consistently declined to dictate to licensees the precise format which their programming should take. To do so would constitute an unlawful and unconstitutional censorship in gross. Instead, the Commission requires the licensee to demonstrate that it has made efforts to ascertain the programming needs of its community and that it has, as a matter of licensee judgment, proposed programming that it believes will satisfy those needs. Moreover, the Commission has consistently recognized that programming should be responsive to changing needs. To require an applicant rigidly to adhere to one format as against another would be to ignore the need for responsiveness to changed circumstances. It was for these sound reasons that the Commission recognized in its Memorandum Opinion and Order of September 4, 1968, that since Strauss had ascertained

the need, through surveys and other methods, for its new format, "the matter is one for judgment of the broadcaster and the Commission, in these instances, cannot properly insist that the prior format must be retained."

4. The Committee would now have the Commission reverse that determination and require, by stay, that WGKA-AM and FM be programmed as classical music stations. Strauss submits that where the sole ground for the stay is, as is here the case, the claim that an existing program format be maintained, the Commission cannot lawfully grant the relief requested. Moreover, in the circumstances, the Committee has not and cannot demonstrate irreparable harm or injury to the public by a change in format. If, indeed, the Committee is successful on the merits in its effort at reconsideration and should the Commission vacate its grant to Strauss, thereby restoring the status quo, presumably the former owner would restore the classical music format. Or, should the Commission require Strauss to adhere to a classical format--an action which we believe to be beyond the Commission's constitutional power--such a format could be restored. Thus, the only effect, not harm, which the public would experience would be the temporary receipt of the meritorious and well-liked music format proposed and now in use by Strauss in lieu of the classical format used by the former owner. This could hardly be termed "harm" and, by no

stretch of the imagination, "irreparable harm."

5. Indeed, Strauss has just caused to be made a new statistical listener survey in Atlanta by a professional marketing and research organization, the preliminary results of which demonstrate that the vast majority of the public prefer Strauss' format to a format of all classical music. The details of the survey will be supplied to the Commission as soon as completed and, in any event, with Strauss' pleading directed to the Committee's "Amendment" to its petition for reconsideration.

6. Finally, Strauss again insists that the Committee has totally failed to show good cause for the extraordinary remedy of a stay. The necessary grounds for a stay have been clearly defined by the Commission and the courts. They cannot be satisfied by a self-serving conclusion that a stay is necessary.

Respectfully submitted,

Strauss Broadcasting Company  
of Atlanta

By: Reed Miller

Reed Miller  
Arnold & Porter  
1229 - 19th St., N.W.  
Washington, D.C. 20036  
Its Attorneys

Dated: October 25, 1968



CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of October, 1968, sent a copy of the foregoing Opposition to "Request for a Stay of Effectiveness" by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

---

Margaret Cureton

CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of October, 1968, sent a copy of the foregoing Opposition to "Request for a Stay of Effectiveness" by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

---

Margaret Cureton

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of  
GLENKAREN ASSOCIATES, INC.  
(Transferor)

and

STRAUSS BROADCASTING COMPANY and  
JERE W. THOMPSON, d/b/a  
STRAUSS BROADCASTING COMPANY OF ATLANTA  
(Transferee)

For Transfer of Control of 100% of the  
Stock of Glenkaren Associates, Inc.

Licensee of Stations WGKA and WGKA-FM,  
Atlanta, Georgia

FILE NO. BTC-5580

For Action by the Commission:

MOTION TO STRIKE AMENDMENT TO PETITION  
FOR RECONSIDERATION AND FOR A PUBLIC HEARING

Strauss Broadcasting Company of Atlanta, (hereinafter "Strauss"), by its attorneys, moves to strike the "Amendment to Petition for Reconsideration and For a Public Hearing", filed herein on October 18, 1968, by the "Citizens Committee to Preserve Programming of the 'Voice of the Arts in Atlanta'; WGKA-AM & FM", (hereinafter the "Citizens Committee"). In support, the following is represented:

1. The Commission's Memorandum Opinion and Order, released September 4, 1968 (FCC 68-890, 20172), granted the application for consent to the transfer of control of the

licensee of WGKA and WGKA-FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta (File No. BTC-5580). On September 24, 1968, the Citizens Committee filed a petition for reconsideration of that decision, relying upon Section 405 of the Communications Act of 1934, as amended. Under Section 1.106(f) of the Commission's rules a "petition for reconsideration and any supplement thereto" must be filed within 30 days from the date of release of the document containing the full text of the action of which reconsideration is sought (Emphasis supplied). No supplement or addition to such petition will be entertained after expiration of the thirty-day period except upon leave granted upon a separate pleading for leave to file which shall state the grounds therefor.

2. The Citizens Committee's "Amendment" to its petition for reconsideration was filed two weeks after the time for filing a petition for reconsideration and any supplement thereto had expired. No separate pleading requesting leave to file and assigning grounds therefor was filed. Instead, the Citizens Committee sought to ground its action upon Section 1.65 of the Rules which, as the Commission well knows, is designed to require applicants to "up-date" their

pending applications and has no bearing at all upon pending petitions for reconsideration. Certainly, 1.65 was not intended and cannot be used as the basis for avoiding the statutory 30-day filing deadline of Section 405 of the Act or the regulatory 30-day deadline established by Section 1.106 of the Rules.

3. Moreover, the so-called "Amendment" contains nothing that could not have, with reasonable diligence, been obtained and filed within the 30-day filing period. For these reasons, it is clear that the "Amendment" is untimely, procedurally defective and should be stricken or dismissed.

4. Although Strauss is confident that the merits of the Amendment are not properly before the Commission for reconsideration, it believes that it should call certain matters to the Commission's attention. The Amendment contains the affidavits of six of the thirteen community leaders of Atlanta interviewed by Strauss as a part of its ascertainment of community needs prior to the filing of the transfer application. Upon reading these affidavits, it seemed clear to Strauss--and particularly to Mr. Dan Hayslett, its Executive Vice President who interviewed these leaders--, that the affiants must not have been made fully aware of the contents and purpose of the summaries of Mr. Hayslett's interviews

with them which were submitted by Strauss, at the request of the Commission's staff, as an amendment to the transfer application on June 3, 1968.

5. Accordingly, between October 23 and October 25, 1968, Mr. Hayslett attempted to revisit each of the thirteen leaders previously interviewed. One, Sheriff Ralph Grimes, is now deceased. Another, Police Chief Herbert Jenkins, was on vacation. A third, Dr. Paul West, Superintendent of Schools, refused to discuss the matter with Mr. Hayslett. However, Mr. Hayslett revisited each of the remaining ten leaders--including five of the six whose affidavits were attached to the Citizens Committee's "Amendment"--(Dr. West being the sixth)--at which time he showed them the summaries of his previous interview with them which were prepared by Mr. Hayslett immediately following the interview. Upon examining the summaries, each of those interviewed gave Mr. Hayslett a letter in which each has expressed his agreement, in general, that the summary fairly represents the substance of the original interview with Mr. Hayslett. Attached hereto as Exhibit A is the affidavit of Mr. Hayslett, dated October 25, 1968, describing his recent revisits with the community leaders. Attached and forming a part of Exhibit A are the letters from the ten leaders expressing their views as to the accuracy of

the original summaries which are attached to the letters. Attached as Exhibit B is a letter, dated October 25, 1968, from Mr. Hayslett to Dr. Paul West, (who declined to discuss the matter with Mr. Hayslett), by which Mr. Hayslett transmitted to Dr. West a copy of the summary of Mr. Hayslett's original interview with Dr. West.

6. Further, there are attached hereto as Exhibit C summaries of additional community leader interviews made within the past few days by Mr. James L. Dodd, Manager of WGKA and WGKA-FM, which represent a continuing effort by Strauss to determine the program needs of the area.

7. Finally, Strauss has caused to be made a statistical public programming preference survey in the Atlanta area. The survey, conducted in October, 1968, was made by a professional market research agency, Marketing and Research Counselors, Inc. Copies of the survey report, a list of representative clients of the agency, and brief biographical resumes of the agency's staff, are attached hereto as Exhibit D. The survey clearly confirms the conclusions previously reached by Strauss, upon the basis of similar surveys in other cities and Strauss' own experience in Dallas and Tucson, that the strong public preference is for a mix of popular standards (preferred by 40% of those interviewed), Top-40 hits (pre-



ferred by 35% of those interviewed), Broadway show tunes (preferred by 29% of those interviewed) and movie themes (preferred by 24% of those interviewed). In contrast, 15% of those interviewed preferred symphonic music, 8% preferred ballet music and only 6% preferred operas.

8. Once again Strauss asserts that it has made reasonable efforts to ascertain the needs of the area it proposes to serve and that its programming proposal is, in its judgment, well designed to serve those needs. Strauss recognizes that a minority of its listeners prefer classical music. To this end, as is represented in the attached affidavit of Mr. Hayslett (Ex. A), on November 10, 1968, the program format of WGKA-FM will be changed so as to broadcast from sign-on to 8:00 p.m. a combination of popular favorites, Broadway show tunes, hits from Hollywood and standard favorites. Commencing at 8:00 p.m. until 11:00 p.m. or 11:30 p.m., depending upon the length of the works, WGKA-FM will be programmed with pure classical music six nights per week. On Sunday nights, starting at 8:00 p.m., WGKA-FM will broadcast a complete opera. It is the sincere belief of Strauss that this FM format, coupled with its AM format of popular favorites, Broadway show tunes, hits from Hollywood and standard favorites, will comport with its prior

representations to the Commission with respect to serving the general public's need while, at the same time, recognizing and serving the needs of the minority element which favors classical music.

Wherefore, the premises considered, it is respectfully requested that the "Amendment to Petition for Reconsideration and For a Public Hearing" be stricken and dismissed and that the Citizens Committee's "Petition for Reconsideration and For a Public Hearing" be forthwith denied.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY  
OF ATLANTA

By: \_\_\_\_\_

*Reed Miller*  
Reed Miller  
Arnold & Porter  
1229 - 19th St., N.W.  
Washington, D.C. 20036  
Its Attorneys

Dated: October 31, 1968

STATE OF GEORGIA)

) ss.:

AFFIDAVIT

COUNTY OF FULTON )

Dan Hayslett, being duly sworn, upon his oath, deposes and says as follows:

My name is Dan Hayslett and I am the Executive Vice President of Strauss Broadcasting Company, which is the 66 2/3% partner of Strauss Broadcasting Company of Atlanta, licensee of Stations WGKA-AM and FM, Atlanta, Georgia.

I have read the "Amendment" to the petition for reconsideration of the Commission's action granting consent to the transfer of control and assignment of licenses of WGKA-AM and FM (File No. BTC-5580) which was filed with the Federal Communications Commission by the "Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WGKA-AM & FM," dated October 18, 1968, and the affidavits of Dr. Paul D. West, Rabbi Jacob M. Rothschild, and Messrs. Walter M. Mitchell, Henry Bowden, Frank L. Carter, and J. Robert Watson, which were attached thereto.

On December 11, 12, 13 and 14, 1967, while assisting in the preparation of the above-mentioned transfer application, I personally visited with each of the above-listed individuals (along with seven others not listed). The purpose of my visit was to comply with the Commission's policy regarding contacts with community leaders as to proposed programming and to enable the applicant, Strauss Broadcasting Company of Atlanta properly to respond to questions 1A, B and C, Part I of Section IV-A of the transfer application. The individuals contacted were listed in Exhibit 3 to Section IV-A.

At each community leader interview, I explained the purpose of my visit and that I was seeking their views as leaders of the community with respect to how the proposed station could serve the needs of Atlanta. Following each interview I

immediately wrote a summary of my understanding of the contents and suggestions of the leader interviewed. These summaries later were submitted to the Commission, at the suggestion of the Commission's staff, as part of the amendment to the transfer application dated May 22, 1968 and filed June 3, 1968. Copies of the summaries are attached. As will be noted therefrom, they not only covered a discussion of the music format but also the needs of the area in terms of news, sports, agricultural, religious and educational programs.

• If any of the community leaders were mislead or misunderstood my purpose, it was certainly not intentional on my part. Moreover, I believe the summaries of the interviews which I wrote immediately following the interviews were fair summarizations of the views expressed by those interviewed. I made no attempt to color or misrepresent their views and, indeed, as the summaries will show, in several cases reported their praise of the existing format of classical music and the fact that either the interviewee or his wife liked and listened to the classical music format. (See, e.g., summaries of interviews with Dr. Paul D. West, Walter M. Mitchell, Rev. Noel C. Burtensham, Rabbi Jacob M. Rothschild).

At each interview I described the proposed format of Strauss of Atlanta representing that it would be a mixture of popular favorites, Broadway show tunes and light classical. As the summaries show, most of the interviewees agreed that such a mix would have a broader appeal to listeners than a straight classical music format. This was, of course, not meant by the interviewees or by me to denigrate the classical format but simply to recognize the obvious, that is to say, that the straight classical format generally has a more limited appeal as compared with a broader mix of various types of music.

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In the light of the affidavits of several of the community leaders which were attached to the Citizens Committees "amendment" to its petition for reconsideration, I visited as many of the leaders as possible on October 23 thru October 25, 1968. I was unable to see Chief of Police Herbert Jenkins who is on vacation and Sheriff Ralph Grimes who is deceased. However I visited with and obtained statements from each of the other leaders, except Dr. Paul West (who declined to discuss the matter in depth) and attach their statements hereto. As will be seen from their statements, once they were given the opportunity to examine my summaries of our earlier meetings, they have agreed that, in general, those summaries fairly presented the substance of their interviews.

Further, Strauss Broadcasting Company of Atlanta has caused a public listener survey to be conducted by Marketing and Research Counselors, Inc., a professional research organisation. The survey was conducted on October 18 thru October 24, 1968 and included a statistical sampling of 382 randomly selected individuals in the Atlanta area. A copy of the survey is attached. As will be seen from the results the respondents showed musical preference as follows:

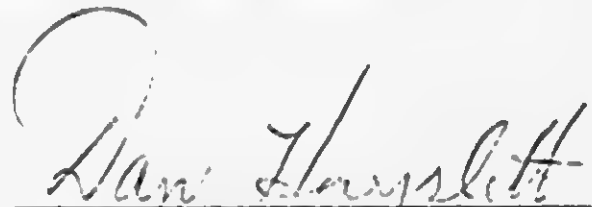
Popular Standards	40%
Top 40 Hits	35%
Broadway Shows	29%
Movie Themes	24%
Country & Western	23%
Novelty Tunes	15%
Symphonic Music	15%
Ballet Music	8%
Operas	6%

This survey confirms the judgements previously made by Strauss of Atlanta, which were based upon similar surveys in other communities and the experience of Strauss in operating broadcast stations in Dallas, Texas and Tuscon, Arizona using formats similar to that proposed in Atlanta, Georgia.

Finally, paragraph 6 of the reply of the Citizens Committee to Strauss' opposition to the Committee's petition for reconsideration alleges that "within one month from this date 1 October 18, 1968 1 Strauss Broadcasting Company will totally change its

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FM programming to popular music". This is to inform the Commission that, on November 10, 1968 the program format of WGKA-FM will be changed so as to broadcast from sign-on to 8:00pm a combination of popular favorites, Broadway show tunes, hits from Hollywood and standard favorites. Commencing at 8:00pm until 11:00pm or 11:30pm depending on the length of the works, WGKA-FM will be programmed with pure classical music six days a week. On Sunday nights starting at 8:00pm WGKA-FM will broadcast a complete opera. Strauss believes this format to be consistent with its prior representations to the Commission which, at the same time, endeavoring to satisfy the needs of a minority of its listeners who have expressed a desire for classical music.

  
Dan Hayslett

Subscribed and sworn to before me  
this 15 day of Nov, 1968.

  
Notary Public

My commission expires: Dec 1 1971

(Notary's Seal)



## Liller Neal Battle & Lindsey, Inc.

Advertising and Public Relations

Atlanta Richmond Tampa New York

Life of Georgia Tower Atlanta, Georgia 30308

October 24, 1968

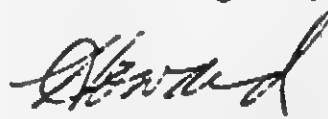
Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Dan:

I have read the attached memorandum concerning our interview and it accurately represents our conversation at that time. These opinions still hold true.

I believe with a format somewhat similar to that of KIXL, your Atlanta station can become one of the better-rated stations in the market.

Kindest regards,

  
H. G. Axelberg

HGA/npb  
Enclosure



Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5016

INTERVIEW WITH HOWARD AXELBERG  
EXECUTIVE VICE PRESIDENT  
LILLIER NEAL & BATTLE ADV. AGENCY

WGKA HAS AN EXTREMELY GOOD IMAGE IN THE MARKET, BUT ACTUALLY ONLY APPEALS TO A VERY SMALL SEGMENT OF PEOPLE SO THAT IT IS NO REAL FACTOR IN THE MARKET FROM AN ADVERTISING STANDPOINT. THE STATION HAS PUT ITSELF IN THIS SMALL NICHE, BUT HE BELIEVES IF THE PROGRAMMING WERE BROADENED, IT WOULD HAVE APPEAL FOR MORE PEOPLE.

MR. AXELBERG SELDOM LISTENS TO THE STATION AS HE PREFERS POPULAR MUSIC. HE IS FAMILIAR WITH OUR DALLAS STATION AND STATED THAT THE MARKET COULD USE AND NEEDS THE KIXL FORMAT, AND IT WOULD BE A TREMENDOUS IMPROVEMENT IN WGKA.

HE IS A SPORTS FAN AND SAYS THAT THIS AREA IS ADEQUATELY COVERED, ALMOST TOO MUCH AT CERTAIN TIMES. SINCE THEY DO HAVE CLIENTS INTERESTED IN AGRICULTURE PROGRAMS, HE IS FAMILIAR WITH THEM AND FEELS THAT THIS AREA HAS SUFFICIENT PROGRAMMING AVAILABLE. HE FEELS THE FIVE MINUTE NEWSCAST FITS A STATION, SUCH AS WE ARE PROPOSING, MORE THAN THE LONGER NEWSCASTS IN DEPTH.

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCFE • KCFE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

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Georgia  
Textile



EXECUTIVE OFFICES • 740 NATIONAL BANK OF GEORGIA BUILDING, ATLANTA, GEORGIA 30303 • PHONE 523-1546

Manufacturers  
Association, Inc.

October 24, 1968

Mr. Dan Hayslett, Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

I have read the attached memorandum concerning the conversation  
I had with you last December, with respect to the sale of WGKA.

It fairly presents the details of our discussion at that time.

Cordially yours,

Frank L. Carter

FLC:d

11

OFFICERS			DIRECTORS		
PRESIDENT	GEORGE W. FELKER, III	MONROE	JOHN A. BOLAND, JR.	C. RALPH EWING	GEORGE D. RAY, JR.
VICE PRESIDENT	FLOYD C. NEWTON, JR.	GRIFFIN	G. CALLAWAY, JR.	W. M. HIGHTOWER, JR.	A. J. STRICKLAND, III
TREASURER	L. P. GREER, JR.	TOCCOA	J. PHILIP CLEVELAND	W. L. MAIGE, JR.	R. C. THATCHER, JR.
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ADMINISTRATIVE ASSISTANT	JIM H. CONNER	ATLANTA	CLARENCE E. ELSAS	J. D. RAMSBOTTOM, JR.	L. M. WOODWARD

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INTERVIEW WITH FRANK CARTER  
PRESIDENT, ROTARY CLUB

MR. CARTER WAS NOT FAMILIAR WITH THE STATION, BUT THOUGHT HIS WIFE MIGHT LISTEN TO IT. HE LISTENS PRIMARILY TO ONE OF THE LARGE NETWORK STATIONS BECAUSE OF HIS INTEREST IN NEWS.

HE ENJOYS SPORTS AND STATED THAT HE FELT THERE WAS ALMOST TOO MUCH OF THIS TYPE PROGRAM AND CERTAINLY NO NEED FOR ANYMORE. BECAUSE OF HIS INTEREST IN COTTON, HE WAS VERY FAMILIAR WITH AGRICULTURE PROGRAMS AND LISTENS REGULARLY TO THEM. BUT HE SEES NO NEED FOR ANY ADDITIONAL PROGRAMS.

BECAUSE OF HIS MUSIC TASTES, HE STATED HE WOULD ENJOY A STATION SUCH AS WE ARE PROPOSING AND WOULD PROBABLY BE A LISTENER. PREFERS 5 MINUTE NEWS-CASTS THROUGHOUT THE DAY, BUT LIKES A LONGER MORE COMPREHENSIVE NEWSCAST EARLY IN THE MORNING.

112

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

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COMMISSIONERS OF ROADS AND REVENUES

FULTON COUNTY, GEORGIA

COUNTY ADMINISTRATION BUILDING

ATLANTA, GEORGIA 30303

TELEPHONE 572-2791  
AREA CODE 404

WALTER M. MITCHELL

October 24, 1968

Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

The memo of the interview with me is correct as far as I can remember except for the last paragraph. This is not exactly what I said at the time of my telephone conversation with you.

As I remember it, you asked me my favorite program and I named Lawrence Welk. If I remember further correctly, I also told you I did not think many of the stations played this type of music. I think I also told you that I would prefer no change being made in the type of music played by station WGKA.

Sincerely,



Walter M. Mitchell

WMM:bf

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INTERVIEW WITH WALTER M. MITCHELL  
COUNTY COMMISSIONER

LISTENS TO RADIO VERY LITTLE, OTHER THAN TO NEWS, AN OCCASIONAL SPECIAL FEATURE PROGRAM AND TO SPORTS PROGRAMS. HE STATED THAT WGKA WAS HIS WIFE'S FAVORITE STATION BECAUSE IT HAD SO LITTLE COMMERCIAL.

HE SAID THE SPORTS COVERAGE WAS VERY WELL DONE BY THE EXISTING STATIONS AND HE COULD SEE VERY LITTLE THAT COULD BE DONE BEYOND THAT NOW OFFERED. BECAUSE OF THE AREA, HE FELT THAT THERE WAS PLENTY OF AGRICULTURE PROGRAMS AVAILABLE TO ANYONE THAT WANTED TO LISTEN TO SUCH PROGRAMS. HE FURTHER STATED HIS HOPE THAT THE STATION WOULD DEVOTE TIME TO AIR ANNOUNCEMENTS PERTAINING TO COUNTY AFFAIRS.

AS TO HIS MUSIC PREFERENCE - HIS FAVORITE WAS LAWRENCE WELK AND OTHERS THAT PLAYED SIMILAR STYLES. HE SAID HE MIGHT LISTEN MORE TO A STATION THAT PLAYED THIS TYPE OF MUSIC, BUT HE DIDN'T THINK MUCH OF THIS TYPE MUSIC WAS NOW OFFERED BY THE STATIONS.

114

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCFE • KCFE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

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from the orig

THE BOARD OF TRUSTEES of EMORY UNIVERSITY



HENRY L. BOWDEN, chairman  
2610 First National Bank Building  
Atlanta, Georgia 30303

October 24, 1968

Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

I have reviewed the summary of a conversation which you and I had in 1967, as prepared by you, and have sought to determine whether or not it correctly reflects our conversation.

It generally does reflect our conversation with the exception of the fact that I have no recollection of discussing any proposed changes in the station's programming. Had we discussed any changes in program, I would have stated to you that I think the radio station should have the right to play any type of music or any type of entertainment it wishes, but I do not recall having discussed this with you.

The other statements I do recall and they do reflect our conversation.

Yours very truly,

  
Henry L. Bowden

HLB/lmw

INTERVIEW WITH HENRY BOWDEN  
CITY ATTORNEY AND CHAIRMAN BOARD  
OF TRUSTEES OF FLORY UNIVERSITY

WAS FAMILIAR WITH STATION BUT LISTENED VERY LITTLE - MOST OF HIS LISTENING WAS TO ANOTHER NETWORK STATION. HE FELT THAT OUR PROPOSED PROGRAM WOULD INTEREST HIM AND MANY OTHERS THAT DO NOT LISTEN TO THE STATION NOW BECAUSE OF THE CLASSICAL MUSIC.

HE PREFERS THE FIVE MINUTE NEWSCAST TO LONGER ONES. HE FELT THAT SPORTS WERE WELL COVERED AND WAS SURPRISED THAT A PARTICULAR COLLEGE BASKETBALL GAME BEING PLAYED IN MEMPHIS WAS NOT CARRIED BY ANY STATION IN ATLANTA. HE DOES NOT LISTEN TO AGRICULTURE PROGRAMS, BUT ASSUMED THERE WAS PLENTY AVAILABLE.

HE STATED THAT THE STATION HAD A GOOD IMAGE, BUT HAD VERY LIMITED APPEAL AND A LIGHTER TYPE OF MUSIC WOULD CERTAINLY HAVE MORE LISTENERS AND WOULD BE A BETTER USEAGE OF THE BROADCAST CHANNEL. MR. BOWDEN SAID HE WAS APPRECIATIVE OF THE SUPPORT OFFERED BY ALL RADIO STATIONS AND PRESUMED IT WOULD BE OUR POLICY TO CONTINUE TO AIR ANNOUNCEMENTS OR PROGRAMS ON AFFAIRS CONCERNING ATLANTA PEOPLE.

110

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 90.1 mc  
TUCSON, ARIZONA

BEST C  
from the •





HOLLIS E. MORRIS  
PRESIDENT

HAINES H. HARGRETT  
EXECUTIVE VICE PRESIDENT

HUGH W. PHILLIPS  
SENIOR VICE PRESIDENT

C. M. MCCUTCHEON  
VICE PRESIDENT

A. L. LEWIS  
VICE PRESIDENT

W. J. CHILDS  
VICE PRESIDENT

J. ROBERT WATSON  
VICE PRESIDENT

JAMES C. ROBERTS  
VICE PRESIDENT & CONTROLLER

HAYDEN O. PRIOR  
VICE PRESIDENT

JAMES H. HICKMON  
VICE PRESIDENT

CHARLES W. MIZELLE JR.  
VICE PRESIDENT

R. JACK CATHCART, JR.  
VICE PRESIDENT

## FULTON FEDERAL SAVINGS AND LOAN ASSOCIATION

P.O. Box 1077 • Atlanta, Georgia 30301

October 23, 1968

Mr. Dan Hayslett  
Executive Vice President  
STRAUSS BROADCASTING COMPANY  
1401 S. Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

I have read the memorandum pertaining to our interview made last December relative to the purchase of WGKA and it fairly represents the conversation we had at that time.

Yours truly,

*J. Robert Watson*  
J. Robert Watson  
Vice President

*James L. Watson*  
Witness  
10/23/68

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INTERVIEW WITH J. ROBERT WATSON  
PRESIDENT, CIVILIAN CLUB  
VICE PRESIDENT, FULTON SAVINGS & LOAN

HAVING BEEN IN BROADCASTING FOR NINETEEN YEARS IN ATLANTA, HE WAS FAMILIAR WITH WGKA. HE IS NOW VICE PRESIDENT OF A SAVINGS AND LOAN COMPANY AND HANDLES THEIR ADVERTISING. IT WAS HIS FEELING THAT WGKA HAD A CERTAIN APPEAL, BUT TO A VERY LIMITED AUDIENCE. HE STATED THAT THERE WAS NO STATION IN ATLANTA PROGRAMMING CONSISTENT MIDDLE-OF-THE-ROAD MUSIC AND A STATION PROGRAMMING AS WE PROPOSE WOULD BE WELL RECEIVED.

HE PREFERS FIVE MINUTE NEWSCASTS AND WHILE HE ENJOYS THE SPORTS PROGRAMS OFFERED BY OTHER STATIONS, HE COULD NOT SEE ANY NEED FOR MORE SPORTS PROGRAMMING. HE DOES NOT PARTICULARLY LISTEN TO AGRICULTURE PROGRAMS, BUT WAS AWARE OF WHAT WAS BEING DONE AND FELT THEY WERE MORE THAN ADEQUATE.

HE STATED THAT WGKA REGULARLY CARRIED A FINE ARTS ACTIVITY SCHEDULE, BUT THAT WAS ABOUT THE EXTENT OF THEIR COMMUNITY INVOLVEMENT. WGKA HAD DONE LIVE DIRECT BROADCASTS OF SYMPHONIES AND CERTAIN OTHER PROGRAMS, BUT ALWAYS DEALING WITH CLASSICAL ARTISTS.

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KIXL • KIXL fm  
1040 kc      104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc      96.1 mc  
TUCSON, ARIZONA

RABBI JACOB M. ROTHSCHILD, D.D.  
1589 PEACHTREE ROAD, N. W.  
ATLANTA 9, GEORGIA

October 25, 1968

Mr. Dan Hayslett  
Strauss Broadcasting Co.  
1401 South Akard  
Dallas, Texas

Dear Mr. Hayslett:

The brief summary of the conversation which we had when you visited my office some months ago is substantially correct so far as I can recollect.

You will recall that the purpose of that meeting was simply to enable us to know one another and was never presented to me as an attempt to obtain my support for and agreement of any change in broadcasting format. None was intended and I cannot find anything in this brief summary to indicate that I in any way made such a suggestion or recommendation.

I must add that I am made most unhappy by the fact that what I had thought to be only a visit for the purpose of getting acquainted with a newcomer to Atlanta has become a source of conflict in the community.

Yours truly,

*Jacob M. Rothschild*

JMR:bs

111

Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5016

INTERVIEW WITH RABBI JACOB M. ROTHSCHILD  
RABBI, THE TEMPLE

HE DOES NOT LISTEN TO THE STATION, BUT KNOWS OF IT AND HIS WIFE LISTENS TO IT ALL THE TIME IN HER CAR AND HOME. RABBI LISTENS TO ANOTHER STATION, BUT ONLY FOR NEWS - HE ENJOYS POPULAR MUSIC AND INDICATED THAT OUR PROPOSED FORMAT WOULD BE WELL ACCEPTED IN ATLANTA AND THERE WAS DEFINITELY A PLACE FOR SUCH A STATION. HE WAS NOT SURPRISED ABOUT THE SALE SINCE HE HEARD SO LITTLE COMMERCIAL ON WCKA.

HE ENJOYS SPORTS AND FELT THAT THIS TYPE OF PROGRAM WAS WELL COVERED AND DID NOT KNOW WHAT COULD BE ADDED - NEVER LISTENS TO AGRICULTURE - SAID HE WOULD BE ANXIOUS FOR US TO TAKE-OVER SO HE COULD HEAR IT. IN HIS OPINION, THE SHORT NEWSCAST WAS PROBABLY BETTER LIKED BY MORE PEOPLE, BUT HE ENJOYED A LONGER NEWSCAST WHICH HE COULD LISTEN TO WHILE DRIVING TO AND FROM HIS OFFICE EACH DAY.

RABBI ROTHSCHILD FURTHER INDICATED THAT HE DID NOT KNOW IF WCKA CARRIED ANY RELIGIOUS PROGRAMS NOW, BUT HE FELT THAT EVERY STATION SHOULD DEVOTE SOME TIME TO RELIGION.

120  
KXNL • KXNL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCFE • KCFE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

BEST  
from the

CATHOLIC CENTER  
ARCHDIOCESE OF ATLANTA  
136 West Wesley Road, N. W.  
Post Office Box 12017, Northside Station  
ATLANTA, GA. 30305

OFFICE OF THE CHANCELLOR

October 23, 1968

Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

I have read your statement on the interview which we had concerning the new radio station which was to be set up in Atlanta. This statement substantially represents a conversation which we had some months ago.

If you need any further information on this matter, kindly contact me at any time.

Sincerely yours,



Reverend Noel C. Burtenshaw  
Chancellor

NCB:mjb

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INTERVIEW WITH REV. NOEL C. BURTENSHAM  
CHANCELLOR, CATHOLIC ARCHDIOCESE  
OF ATLANTA

HE WAS VERY FAMILIAR WITH WOKA AS HE ENJOYS CLASSICAL MUSIC OCCASIONALLY. HE STATED THAT HE WAS NOT SURPRISED THE STATION WAS SELLING, BECAUSE HE HAS NOTICED THE LACK OF COMMERCIALS AND HE IS AWARE THAT A STATION MUST AIR COMMERCIALS IF THEY PLAN TO SURVIVE.

LIKE MOST ATLANTANS, HE IS A BIG SPORTS FAN, BUT COULD NOT THINK OF ANYTHING IN SPORTS THAT WAS NOT BEING COVERED NOW. HE HAS NO INTEREST IN AGRICULTURE TYPE PROGRAMS, SO HE DOES NOT LISTEN - BUT WAS AWARE THAT THIS FORM OF PROGRAMMING WAS NOW BEING OFFERED. FATHER BURTENSHAM SAID THAT WHILE THE CATHOLIC MASS DID NOT LEND ITSELF TO RADIO, THAT HE HOPED THE STATION WOULD INCLUDE ANNOUNCEMENTS PERTINENT TO THE CATHOLIC COMMUNITY.

HE STATED THAT HE LIKES MODERN GOOD MUSIC AND WAS ENTHUSIASTIC ABOUT OUR PROPOSED PROGRAMMING. HE FELT THAT A PROGRAM FORMAT SUCH AS WE ARE PROPOSING WOULD HAVE AN APPEAL TO MORE PEOPLE AND WOULD AT THE SAME TIME RETAIN MUCH OF THE AUDIENCE THE STATION NOW HAS SINCE SOME CLASSICAL MUSIC WOULD BE OFFERED.

HE ENJOYS A LONG NEWSCAST EARLY IN THE MORNING, BUT OVERALL HE PREFERS THE SHORT FIVE MINUTE NEWSCAST.

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

122

KCEE • KCEE fm  
780 kc 96.1 mc  
TUCSON, ARIZONA

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The Civil Court of Fulton County  
Atlanta, Georgia 30303

CHAMBERS OF  
JUDGE E. A. WRIGHT

October 23, 1968

Mr. Don Hayslett,  
Executive Vice-President  
W. G. K. A.  
Atlanta, Georgia

This is to advise that the attached quotation  
of my conversation with you in December of 1967 fairly  
represents the conversation with you and the statements  
made by me.

Yours very truly,



E. A. Wright, Judge  
Civil Court of Fulton County

EAW:gd

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INTERVIEW WITH JUDGE F. A. WRIGHT  
SUPREME CIVIL COURT, FULTON COUNTY

HE LISTENS TO WOKA FREQUENTLY AND IT IS HIS WIFE'S FAVORITE STATION BECAUSE IT HAS SO FEW COMMERCIALS. HE SAID THAT HE RATHER ENJOYED COMMERCIALS ONCE IN AWHILE AND THEY DID NOT BOTHER HIM.

EACH MORNING BETWEEN 5:00 - 6:00 AM, HE LISTENS TO AGRICULTURE/FARM PROGRAMS AND ALSO AT THE NOON HOUR WHEN HE HAS THE TIME.

JUDGE WRIGHT STATED THAT HE LIKES SPORTS AND CAN USUALLY GET ABOUT WHATEVER HE WANTS TO HEAR, AND DID NOT HAVE ANY IDEA WHAT ELSE COULD BE OFFERED.

HE STATED THAT HE WOULD PROBABLY LISTEN TO A STATION SUCH AS WE ARE PROPOSING, BUT FELT CERTAIN THAT IT WOULD SERVE MORE PEOPLE WITH SUCH DIVERSIFIED MUSIC. HE HAD NO STRONG OPINION ABOUT THE LENGTH OF NEWSCASTS, BUT FELT THAT THE FIVE MINUTE NEWS PROGRAMS WERE MORE COMPATIBLE WITH THE TYPE PROGRAMMING WE HAVE SUGGESTED.

124

KIXI. • KIXI fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 90.1 mc  
TUCSON, ARIZONA

BEST COPY  
from the original

# Trust Company of Georgia

POST OFFICE DRAWER 4418

Atlanta, Georgia 30302

October 23, 1968

AUGUSTUS M. STERNE  
PRESIDENT

Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard Street  
Dallas, Texas 75215

Dear Mr. Hayslett:

I have read the attached memorandum which relates to the interview you had with me in December of last year, and to the best of my recollection it presents fairly the substance of our conversation.

Sincerely yours,

A. M. Sterne

Sworn to and subscribed  
before me this 23rd  
day of October,  
1968.

Victoria M. Spain

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INTERVIEW WITH AUGUSTUS H. STERN  
PRESIDENT, CHAMBER OF COMMERCE

MR. STERN NEVER LISTENS TO WGKA AND WAS NOT TOO FAMILIAR WITH THE STATION. HE LISTENS TO ANOTHER STATION BECAUSE OF ITS NEWS AND FOR MUSIC MORE TO HIS TASTE. AS PRESIDENT OF ONE OF ATLANTA'S LARGEST BANKS, HE FELT THAT PROGRAMMING SUCH AS WE HAVE PROPOSED WOULD HAVE GREATER APPEAL TO MORE PEOPLE THAN THE PROGRAMMING NOW OFFERED ON WGKA, AND WOULD MAKE THE STATION MORE OF A FACTOR IN ATLANTA.

HE PREFERS FIVE MINUTE NEWSCASTS BECAUSE HE LISTENS MOSTLY IN HIS CAR AND DOES NOT LIKE TO BE LISTENING TO A LONG NEWSCAST WHEN HE HAS TO LEAVE HIS CAR AND MISS PART OF A NEWS STORY - DOES NOT LISTEN TO AGRICULTURE PROGRAMS, BUT ASSUMES THERE IS PLENTY AVAILABLE. HE ENJOYS SPORTS AND NEVER HAS ANY TROUBLE FINDING WHATEVER HE WANTS TO LISTEN TO ON RADIO - DIDN'T KNOW WHAT ELSE COULD BE DONE.

A RADIO STATION CAN DO MUCH FOR A COMMUNITY AND THE PUBLIC SERVICE SPOTS CALLING ATTENTION TO VARIOUS CITY ACTIVITIES AND DEVELOPMENTS. IT WAS HIS HOPE THAT WE WOULD USE SUCH MATERIAL WHEN IT WAS SUBMITTED TO THE STATION.

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KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

KCEE • KCEE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

BEST COPY  
from the original

PIERCE HARRIS  
PASTOR EMERITUS FIRST METHODIST CHURCH  
ATLANTA, GA.

PLEASE DIRECT  
ALL MAIL TO

1167 OAKDALE ROAD, N. E.  
ATLANTA, GA. 30307

TELEPHONE  
877-2005

MINISTER • COLUMNIST  
CONFERENCE, CONVENTION  
AND BANQUET SPEAKER

Mr. Dan Hayslett  
Executive Vice President  
Strauss Broadcasting Company  
1401 South Akard  
Dallas, Texas

Dear Mr. Hayslett:

I have read the memorandum of our meeting in December 1967  
and it fairly represents our conversation and the statements  
made by me.

Yours very truly,

*Pierce Harris*

*J. H. Lipscomb*  
J. H. Lipscomb

Witness

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INTERVIEW WITH DR. PIERCE HARRIS  
FIRST METHODIST CHURCH, PASTOR

HE WAS NOT FAMILIAR WITH WGKA, BUT EVEN IF HE WERE, HE WOULD NOT LISTEN TO IT BECAUSE OF ITS ONLY PLAYING CLASSICAL MUSIC. HE INTERPRETS CLASSICAL MUSIC, AS MUSIC THAT THREATENS TO DEVELOP INTO A TUNE - BUT NEVER DOES.

HE STATED THAT HE ENJOYS SPORTS PROGRAMS AND LISTENS TO THEM ON OCCASION, AND COULD NOT SEE WHAT ELSE COULD BE DONE THAT WAS NOT ALREADY BEING DONE. HE HAS NEVER LISTENED TO ANY AGRICULTURE PROGRAMS AND HAD NO OPINION ON THIS TYPE OF PROGRAM.

IT WAS HIS OPINION THAT ONLY A MINUTE FRACTION OF THE PEOPLE LIKE CLASSICAL MUSIC AND HE FELT THAT A RADIO STATION HAD AN OBLIGATION TO SERVE AS MANY PEOPLE AS POSSIBLE. HE FELT THAT PROGRAMMING SUCH AS WE WERE PROPOSING WOULD BE A MOST WELCOME RELIEF FROM THAT CURRENTLY OFFERED.

KIXL • KIXL fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

128

KCFE • KCFE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

October 25, 1968

Mr. Paul D. West  
Superintendent of Schools  
Fulton County  
Atlanta, Georgia

Dear Mr. West:

First, let me express my appreciation for working Jim Dodd and myself into your busy schedule this past Wednesday, October 23rd.

We came by your office in the hopes that we might clarify what appears to be a misunderstanding concerning statements purportedly attributed to you concerning the sale of WGKA and any format changes. It was my intention to show you the report of the interview made with you last December. However you made it quite clear that you did not care to see any further documents after I had show you a copy of the Petitioners filing, at which time you stated "it was a closed issue"

I regret that I was unable to reach you by phone Friday, even though I tried several times.

However, I felt that you should see the report and I have enclosed a copy herewith for your files. As you can see it does not in any way quote you as recommending any change in format. As a matter of fact the statement mentions your familiarity with and approval of the WGKA Classical format.

It states the obvious observation that a broadening of the programming would have appeal to more people -- this is merely a statement of fact and is borne out by a listener survey conducted recently in Atlanta.

I respectfully submit this information, for your consideration. Should you care to discuss this further, I can be contacted at WGKA, phone number is 521-1190.

Cordially,

*W. R. Haycraft*  
Executive Vice President

cc: Reed Miller

Encl.

DH/ar

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INTERVIEW WITH DR. PAUL D. WEST  
FULTON COUNTY SUPERINTENDENT OF SCHOOLS

VERY FAMILIAR WITH THE STATION AS HE LIKES CLASSICAL MUSIC. ADDITIONALLY, MOST OF THE OTHER STATIONS HAVE MORE COMMERCIALS AND HE LIKES WGKA BECAUSE IT HAS SO FEW COMMERCIALS TO INTERRUPT THE PROGRAMMING.

HE SAID THAT SO MANY PEOPLE TODAY ARE DEVOTED TO RADIO BECAUSE OF ITS DIVERSIFICATION THAT A BROADENING OF THE PROGRAMMING ON WGKA WOULD BE BENEFICIAL BECAUSE IT WOULD BE MORE APPEALING TO A LARGER NUMBER OF PEOPLE. HE STATED THAT HIS DEPARTMENT WOULD PRESUME THAT WE WOULD AIR SPOTS WHEN WEATHER AFFECTS SCHOOLS OR WHEN UNUSUAL SITUATIONS OCCUR PERTAINING TO EDUCATION.

ATLANTA IS A SPORTS LOVING TOWN AND THE AMOUNT OF SPORTS COVERAGE OFFERED BY THE OTHER STATIONS IS POSITIVE PROOF. AGRICULTURE IS ALSO WELL DONE, COUNTY AGENT IS ON EACH MORNING AND ANOTHER GOOD AGRICULTURE PROGRAM IS ONE DONE FROM ATHENS, GEORGIA.

HE LIKES A COMBINATION OF CLASSICAL MUSIC, AND MIDDLE OF THE ROAD MUSIC, AND FELT THAT THE PROGRAMMING PROPOSED WOULD BE WELL RECEIVED BY ATLANTANS AS THERE IS NOTHING EXACTLY LIKE THAT NOW BEING DONE.

KIXI • KIXI fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

130

KCFE • KCFE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

BEST COPY  
from the original



Interview by James L. Dodd with Dr. Noel L. Stephens, Headmaster, The Lovett School, Atlanta, on October 23, 1963.

Dr. Stephens stated that, from an educational standpoint, radio and TV stations had done a much better job in Atlanta than have the newspapers. This, he feels, is particularly true in student counseling in that anything newspapers have done has been quite shallow. He feels that more "knowledgeable" school people should become involved in getting the message of educational institutions to the public at large.

He prefers the brief or five minute format but feels that in-depth coverage is necessary for major studies even in the five minute format.

He feels that there is little interest in agriculture in the metropolitan area but short items in announcement form might be helpful regarding things to plant lawns, etc.

He stated that the importance of education could be stressed also via the announcement route, particularly in the areas of school activities and the importance of the nationally standardized C.E.T.S. scores and what they mean.

His personal preference for music is for some light classical plus the big bands of the forties and fifties and the New Orleans Dixieland jazz sound.

Interview by Jones L. Do. with Mr. George Goodwin, vice president of Bell and Stanton Public Relations and perennial civic leader with Atlanta activities.

Mr. Goodwin stated that there were some ways in which radio could assist in agricultural information through the use of spot announcements concerning activities of the State Department of Agriculture such as weights and measures, "truth in packaging", etc.

His only comment on educational programming was a suggestion for spot announcements on "the dropout problem".

In religion, he feels that most things done today in broadcasting are "babe" and "deliver us from the praying type" of religious programming. He states that there is a place on radio for the short meaningful religious message which is not associated with any denomination.

He prefers the five minute news format and feels that important stories should be featured heavily. He much prefers the 25 and 55 minutes past the hour scheduling of newscasts.

Mr. Goodwin's musical tastes indicate that he doesn't care of ninety percent of the classical music. He does not like rock and roll but will listen to an occasional novelty tune such as "Harper Vally PTA". He likes light, airy music such as pop, bar standards, Lerner and Loew, "My Fair Lady", "Gigi", other Broadway and motion picture music.

Interview by James L. Do with Honorable Ivan Allen, Jr. Mayor of Atlanta  
on Monday October 23, 1966.

Mayor Allen stated that he listened to radio for news and music. He prefers the five minute news format because it gives him the information he wants on a regular schedule and covers the news scene in a short period of time.

He feels that he is not qualified to report on educational or religious programming and feels that this should be covered with persons in those fields.

"Since there is no farming in the Atlanta metropolitan area to speak of" agricultural programming over and above that now supplied to the market would serve no useful purpose.

His personal music tastes lean to "the foxtrots of bygone days" and he likes the popular-standard type of music on radio.

Interview by James L. Dodd with Mr. Orie Shelton, executive vice president ,  
Atlanta Chamber of Commerce. Monday October 28, 1968.

Mr. Shelton prefers the five minute and capsule version of news and prefers the newscasts which fall five minutes before the hour. He likes local news coverage if it is well done ... not "warmed over news" or stories". He feels that International and National news is now adequately covered in the market.

Since farming contributes very little to the area's economy in your coverage area there is no necessity for additional agricultural programming.

Mr. Shelton feels that he is not qualified to discuss religious programming.

He feels that the "buying power" in the market listens to the station which programs to the more mature audience with music such as The Three Suns, etc.

His personal preference for music is for the classical and the "big band sounds" and he feels that this will appeal to a large part of the metropolitan area audience. He has not heard the new format on WKA but feels that this is the type programming to which he will listen.

Interview conducted by James L. Dodd with The Honorable George T. Smith, Lieutenant Governor of Georgia on October 29, 1968.

In the field of agriculture Governor Smith feels that there is little a metropolitan Atlanta area can do since his estimate of the amount of farming in a forty to fifty mile radius is even less than the Chamber of Commerce estimate of less than six percent of contribution to local economy.

He does not feel that he is qualified to comment on educational broadcasting other than a spot announcement effort to keep children in the schools.

Governor Smith states that he thinks religious broadcasting should be confined to announcements of important religious events and that there is more than sufficient religious programming in the market already. He further thinks that a church on radio would be alright but he thinks it should be on a commercial basis rather than a public service basis. (This statement was made voluntarily and not in answer to a question).

He prefers the five minute newscast format but feels that our ten minute news roundup in the morning is also good. He thinks that there should be a mixture of international, national and local news based on the importance of the content of the news.

Governor Smith states that he sometimes listens to some semi-classical music but definitely does not like classical music at all. His further preference is for Broadway and motion picture type music and specifically things such as "The Sound of Music".

Interview conducted by James L. Dodd with Miss Beth Herzog, Director of Public Relations for the United Appeal in Atlanta and a civic worker for several years.

Miss Herzog feels that there is nothing a metro Atlanta station can do in agriculture that isn't already being done by a 50,000 watt clear channel station is not already doing.

She states that she thinks religious programming is more than adequately covered in the market.

She feels international, nation and local news should be covered adequately but that the news story content and its importance should dictate the length of the newscasts.

She feels that there should be more emphasis devoted to education in spot announcements such as the promotion of the new area vocational and technical school. Its emphasis on who is eligible to attend, procedures, courses offered, etc.

Her personal music tastes run to some classical, Broadway and motion picture tunes but absolutely no rock and roll or so-called "top 40" music.

Programming Preference  
Study

Radio Station WGKA  
Atlanta, Georgia

October, 1968

Survey #2114

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## PREFACE

### OBJECTIVE:

To determine radio programming preferences among adults in Atlanta, Georgia.

### METHODS:

This study was conducted with a sample of 382 respondents selected on a systematic basis from the telephone directory of Atlanta, Georgia. Only adults were included in the survey.

One hundred ninety eight females and 189 males were included in the sample.

All interviews were conducted by telephone by trained market research interviewers working under a qualified M/A/R/C Field Supervisor. This supervisor is a member of the M.R.T.A., a professional research trade association made up primarily of independent field supervisors and field directors of major corporations.

Interviewers were provided a structured questionnaire and were trained in a central briefing session. Five percent of each interviewer's work was verified by the supervisor for accuracy, authenticity and interviewer attitude.

TABULATION  
OF RESULTS:

All data have been edited, coded and transferred to IBM cards. These cards will be kept on file for two years and are available for additional cross-tabulations at the regular hourly charge. Original questionnaires will be kept on file for one year and are available for examination or study at any time during the period.

SYMBOLS USED IN  
THE REPORT:

Throughout the report, an asterisk (\*) sign indicates that the number was less than one-half of one percent. A hyphen (-) indicates that there was no response. Any totals that exceed 100% indicate that there were multiple answers to the particular questions.

The base upon which the percentage is figured is given in parentheses at the foot of each table. If the raw number for any element in the distribution is needed, it can be calculated by multiplying its percentage by the base number.

GENERAL RESULTS

1. The strongest preferences in overall listening among adults in Atlanta exists in the areas of Broadway Show Tunes, Standard Popular Songs and Top-40 Hits when these are matched against varying types of programming. Movie Theme music was chosen by the next largest percentage of the respondents. (See Page 8)
2. These same four programming types were mentioned most often by respondents who indicated the types of music they would like to hear everyday. Operas, Ballet Music, Symphonic Music and Novelty Tunes rated poorly as those which respondents would like to hear everyday.

Respondents Who Would Like  
to Hear Each Type of Music  
Everyday

Popular Standards	40%
Top-40 Hits	35
Broadway Shows	29
Movie Themes	24
Country and Western	23
Novelty Tunes	15
Symphonic Music	15
Ballet Music	8
Operas	6

3. Half the respondents indicated they never like to hear Opera Music. Forty-four percent said the same about Ballet Music. Also, 31 percent said they never like to hear Symphonic Music.

Those who never like to hear other types of music are shown below:

Popular Standards	7%
Broadway Show Tunes	12
Movie Themes	12
Top-40 Hits	18
Novelty Tunes	23
Country and Western	27

STATISTICAL APPENDIX

1a. Do you have a radio at home?

	<u>Home - AM</u>	
Yes		98%
No		<u>2</u>
		100%
Base - total respondents		(382)

1b. Can you receive FM in your home?

	<u>Home - FM</u>	
Yes		70%
No		<u>30</u>
		100%
Base - total respondents		(382)

1c. Do you have a radio in your car?

	<u>Car - AM</u>	
Yes		87%
No		<u>13</u>
		100%
Base - total respondents		(382)

1d. Can you receive FM radio in your car?

	<u>Car - FM</u>	
Yes		19%
No		<u>81</u>
		100%
Base - total respondents		(382)



2. Now, I'd like to know something about the music you like to hear on the radio. First, which one of these three kinds of music do you prefer?

Top-40 Hits, like "The Straight Life," "Fire," "Girl Watcher."	41%
Movie Theme music, like "Dr. Zhivago," "Born Free," "Goldfinger," "The Graduate."	35
Ballet, like "Petrouchka," "Swan Lake," "The Sorcerer's Apprentice."	11
None of these	<u>13</u>
	100%
Base - total respondents	(382)

Now, which one of these three do you prefer?

Operas, like "The Barber of Seville," "Aida," or "Carmen."	7%
Country and Western Hits, like "Next in Line," "Mama Tried," "Happy State of Mind," "Flower of Love."	30
Broadway Show Tunes, like "Mame," "Cabaret," "Hello Dolly."	56
None of these	<u>7</u>
	100%
Base - total respondents	(382)

And which one of these three do you prefer:

Standard Popular Songs, like "Stardust," "Moonglow," "Night and Day."	54%
Symphonic Pieces, like "The Pines of Rome," "The Emperor Concerto," "The New World Symphony."	13
Novelty Tunes, like "Tijuana Taxi," "The Lonely Bull," "A Taste of Honey."	26
None of these	<u>7</u>
	100%
Base - total respondents	(382)

3. Now, I'd like you to tell me how frequently you like to hear these types of music. Do you like to hear...

	<u>Every day</u>	<u>Once in a while</u>	<u>Not at all</u>
Top-40 Hits	35%	47%	18%
Movie Themes	24	64	12
Ballet Music	8	48	44
Operas	6	44	50
Country & Western	23	50	27
Broadway Shows	29	59	12
Popular Standards	40	53	7
Symphonic Music	15	54	31
Novelty Tunes	15	62	23
Base - total respondents	(382)	(382)	(382)

CLASSIFICATION

AGE:

18 - 34	43%
35 - 49	31
50, over	<u>26</u>

100%

Base - total  
respondents (382)

SEX:

Male	48%
Female	<u>52</u>

100%

Base - total  
respondents (382)

FAMILY INCOME:

Under \$7,500	33%
\$7,500 - \$15,000	52
Over \$15,000	14
Refused	<u>1</u>

100%

Base - total  
respondents (382)

## REPRESENTATIVE M/A/R/C CLIENTS

### ADVERTISING AGENCIES

Norsworthy-Marcus, Inc.  
Tracy-Locke Company, Inc.  
Wyatt-Williams

### PACKAGED PRODUCTS

The Borden Company  
Bravo Smokes, Inc.  
Comet Rice Mills, Inc.  
Conwood Corporation  
Frito-Lay, Inc.  
Imperial Sugar Company  
Pearl Brewing Company  
Pepsi-Cola Company  
R. J. Reynolds Foods, Inc.  
Riviana Foods, Inc.

### INDUSTRIAL

Acme Brick Company  
Collins Radio  
Gulf & Western Industries, Inc.  
Ling-Temco-Vought  
Texas Instruments, Inc.  
Varo, Inc.

### FINANCIAL-UTILITIES

Amarillo National Bank  
First National Bank in Dallas  
First National Bank in Fort Worth  
First National Bank of Memphis  
Gulf Insurance Group  
National Bank of Commerce,  
San Antonio  
National Bank of Tulsa  
Southern Union Gas Company

### RETAILERS

Bonanza, Incorporated  
Fred's Ranch Foods  
Furr's Inc.  
Neiman-Marcus

### TELEVISION GROUP OWNERS

Avco Broadcasting Corporation  
Doubleday Broadcasting Company  
Gilmore Broadcasting Corporation  
Griffin-Leake TV, Inc.  
Scripps-Howard Broadcasting Company  
Spanish International Network

### TELEVISION STATIONS

KVII-TV, Amarillo, Texas  
KSAT-TV, San Antonio, Texas  
WSPA-TV, Spartanburg, South Carolina  
KLTV, Tyler, Texas

### RADIO STATIONS

KBOX, Dallas  
KJIM, Fort Worth  
WBAP, Fort Worth  
KOCA, Kilgore  
KLUE, Longview  
KTRE, Lufkin  
KMHT, Marshall  
KBZB, Odessa  
KOGT, Orange  
KBCL, Shreveport  
KTON, Temple  
KOME, Tulsa

### OUTDOOR ADVERTISING

Southern Outdoor Markets

### PUBLISHERS

The Arlington Citizens-Journal  
Building Supply News  
The Dallas Times Herald Publishing  
Company  
The Petroleum Engineering  
Publishing Company  
Soft Drink Industry

MEMBER: American Marketing Association

ASSOCIATE MEMBER: National Association of Broadcasters

Short Resumes Of  
M/A/R/C Professional Staff

Bud Phillips	President; 19 years experience in marketing research, advertising and marketing; B.S. in Journalism, Southern Methodist University.
Jack Taylor	Executive Vice President; 17 years experience in market research, advertising and marketing; formerly Vice President, Media and Research, Tracy-Locke Company, Inc.; B.B.A., M.B.A., The University of Texas.
Mildred Steindorf	Vice President, Director of Field Operations; 18 years experience in field work with Bureau of the Census and as an independent supervisor.
Ted Fritzler	Manager, Data Processing Department; 7 years experience in market research, advertising, marketing and data processing; B.A. in Marketing, Texas Tech.
Wells Bruen	Manager, Media Research; 24 years experience in research, management and sales in television, radio, newspaper and outdoor; network and national field in New York; owned regional sales company; Columbia University.
John Lowery	Account Executive, specializing in banks and food products; 6 years experience in market research and advertising; B.S. and post-graduate work in Marketing, St. Louis University.
Charles Wilson	Account Executive, store test specialist; 7 years experience in market research, specializing in store testing for major national advertisers; B.A., University of Evansville.
Dave Jones	Project Director; 1 year experience in market research; B.B.A., Texas A&M and post-graduate work, Columbia University.

CERTIFICATE OF SERVICE

I hereby certify that I have this 31st day of October, 1968, sent a copy of the foregoing "Motion to Strike Amendment to Petition for Reconsideration and For a Public Hearing" by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

  
Margaret Cureton

# ARNOLD & PORTER

1229 NINETEENTH STREET, N.W.  
WASHINGTON, D. C. 20036

222-3200

November 6, 1968

HUNMAN ARNOLD  
PAUL A. PORTER  
ALTON V. FREEMAN  
IRMAN DIAMOND  
WILLIAM L. MCGOVERN  
ANDOLYN E. AGGER  
LOUIS EISENSTEIN (1915-1966)  
DUANE VIRTH  
VICTOR H. KRAMER  
LEO MILLER  
DE BRASH  
WILLIAM D. ROGERS  
HOWELL HILL  
ULIUS M. GREISMAN  
OGAR H. BRINNER  
ENNIS G. LYONS  
TUART J. LAND  
BERT E. HERZSTEIN  
AMLE R. MCALEE  
ATER J. ROCKLER  
LARRY ARONSTEIN  
AUL S. BERGER  
OHAN T. RIGBY  
WILLIAM HENRY  
AMES F. FITZPATRICK  
ELVIN C. GARDOW

Item 17

BRUCE L. MONTGOMERY  
JOHN D. HAWKE, JR.  
MURRAY H. BRING  
PRISCILLA HOLMES  
ARTHUR E. STROUT  
DANIEL A. REZNECK  
JOHN A. EICHLER  
GERALD W. STERN  
RICHARD S. EWING  
MELVIN SPAETH  
RICHARD L. BACON  
HARRY HUSE  
CHARLES R. HALPERN  
DAVID R. KENTOFF  
DAVID M. LLOYD  
MURRAY S. WEBER  
JACK L. LIPSON  
ARMISTEAD W. GILLIAM, JR.  
PETER K. BLEARLEY  
ALEXANDER E. BENNETT  
JEROME I. CHAPMAN  
MICHAEL SCHNEIDERMAN  
DANIEL P. LEVITT  
REID P. CHAMBERS

Mr. Ben F. Waple  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

CABLE ADDRESS  
"ARFOPO"

Dear Mr. Waple:

This will refer to the pending Petition for Reconsideration and For a Public Hearing filed by the "Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WGKA-AM & FM", requesting reconsideration of the Commission's action, released September 4, 1968, granting the application for consent to the transfer of control of the licensee of WGKA-AM and FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta (BTC-5580).

We are enclosing herewith, for the Commission's information, a copy of an undated letter from the Citizens Committee to the C. & S. National Bank of Atlanta, an advertising customer of WGKA, along with a copy of a so-called "newsletter" issued by the Committee, in which the Committee threatens to engage in an economic boycott against the Bank and other WGKA advertisers unless they withdraw their advertising support from the stations.

We wish to advise the Commission in advance that Strauss Broadcasting Company of Atlanta has under study the legal steps necessary to protect its rights against the threatened boycott by the institution of court action against the Committee and its individual members. This advance notice is given lest the Citizens Committee, in keeping with its penchant for making loose and unfounded charges of



"fraud" and "misrepresentation" against Strauss, complain to the Commission that Strauss is harassing it in court without justification.

The wholly unfounded charges of "fraud" and "misrepresentation" appearing in the enclosures are apparently grounded upon the affidavits of six individuals contacted by Strauss in its leader survey which affidavits were attached to the Committee's "Amendment" to its petition for reconsideration. The Commission's attention is invited to Strauss' Motion to Strike the "Amendment" to which were attached subsequent letters from five of the six affiants, along with similar letters from other persons contacted by Strauss, in which these same leaders agree generally that Strauss' summaries of the interviews with them, which had been filed with the Commission, fairly represent the substance of the interviews.

Sincerely,

Strauss Broadcasting Company  
of Atlanta

By: Reed Miller

Reed Miller  
Arnold & Porter  
1229 - 19th St., N.W.  
Washington, D.C. 20036  
Its Attorneys

cc: Chairman Rosel H. Hyde  
Commissioner Robert T. Bartley  
Commissioner Robert E. Lee  
Commissioner Kenneth A. Cox  
Commissioner James J. Wadsworth  
Commissioner Nicholas Johnson  
Commissioner H. Rex Lee  
Chief, Broadcast Bureau  
Henry Angel, Esq.,  
Counsel for the Citizens Committee

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BEST COPY  
from the original

## Broadcast Good Music! Committee

(The Citizens Committee to preserve the present programming  
of the Voice Of The Arts in Atlanta: WGKA - AM & FM)

### OFFICERS:

P. O. Box 7345

ATLANTA, GA. 30309

Phone: 233-5216-237-9941

MICHAEL M. HUMPHREYS,  
CHAIRMAN

JAMES E. DOHERTY,  
VICE CHAIRMAN-PUBLICITY

HOWARD R. DAVIS,  
VICE CHAIRMAN-MEMBERSHIP

RED NEELY,  
VICE CHAIRMAN-FINANCE

CAROL WARNER  
SECRETARY

HENRY ANGEL,  
COUNSEL

October 31, 1968

C & S National Bank  
c/o Mr. Mal Murray  
Burke, Dowling & Adams  
750 Peachtree Rd.  
Atlanta, Ga.

Dear Mr. Murray:

This Committee wishes to advise you that it is seriously considering initiating an economic boycott of those who place paid advertising on radio station WGKA.\*

Since your organization presently places paid advertising on WGKA, it could be a boycott target. We hope, however, it will not be. Your response to this letter could be the determining factor.

Why a boycott of WGKA advertisers?

A fair question and one which deserves an explanation. To offer it we refer you to the enclosed newsletter which details the events which ignited consideration of this method of recourse.

Assuming you have read the newsletter, you now know why a growing number of Atlantans, (many of them your customers), are seeking redress not only for the loss of serious music programming on WGKA, but for the way in which this loss was accomplished--by deliberate, calculated misrepresentation.

Even the evidence it has uncovered, the Committee is confident that through FCC or judicial action, serious music will ultimately be restored on WGKA. However, the Committee also recognizes that obtaining redress through such administrative and legal channels can be a process which takes several weeks or months.

In this instance the boycott, if initiated, would be against C&S. You are being advised since you place their advertising.

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AVAILABLE

bound volume

Meantime there is a growing resentment and anger among many of the 40,000 metro Atlanta area residents who customarily listen to serious music. They want results now.

Accordingly, we are asking all WGKA advertisers to discontinue the placement of paid advertising on WGKA. We can assure all those who accede to this request that they will not be targets of any boycott initiated by the Committee.

The Committee has formed a radio monitoring crew which daily logs the names of WGKA advertisers. Thus, we know the names of existing advertisers and new ones as they occur. All present advertisers will receive this letter. All new advertisers will receive an equivalent letter as the appearance of their paid sponsorship occurs.

Enclosed is an "expression of intent" form. We request that you use it (or a facsimile) to indicate the date upon which your commercials will no longer be aired over WGKA. Please indicate also the name of your organization and its advertising agency (if applicable), sign the form and send it to the Committee by return mail.

Sometime before mid-November the Committee will reach a final decision on whether to boycott. If the decision is affirmative, boycott targets will include any advertisers who have not satisfactorily responded to this letter.

We do not presume that you necessarily view the return of serious music programming to the Atlanta airwaves with a sense of urgency similar to that of this Committee. We do feel, however, that you care about the reputation and ethics of the firms with which you are publicly associated. Now that you are aware of the methods employed by Strauss to gain WGKA and change its programming, we feel certain you will welcome this request to disassociate yourself from the taint of "guilt by association". For you to do otherwise, necessarily implies your tacit endorsement of the methods used by Strauss.

Looking forward to your reply.

Sincerely,

The Broadcast Good Music! Committee

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**BEST COPY**  
from the original

Please complete and mail to:

Broadcast Good Music! Committee  
P.O. Box 7345  
Atlanta, Ga. 30309

We, the undersigned, wish to inform you we are discontinuing  
the airing of our paid commercial announcements on radio  
WGKA effective \_\_\_\_\_  
(date)

Organization \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Our advertising agency is \_\_\_\_\_

\_\_\_\_\_  
(dated)

\_\_\_\_\_  
(signed)

Comments:

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# roadcast b good m music! c committee

newsletter



## Mass Meeting on WGKA Classical Music Issue Slated for Nov. 7

If you care about restoring classical music programming to the Atlanta airwaves, you are urgently requested to attend a mass public meeting of the BROADCAST GOOD MUSIC COMMITTEE at the Unitarian Universalist Church, 1911 Cliff Valley Way, N.E. (off the expressway at Druid Hills Rd.) at 8:00 p.m. on November 7, 1968.

This meeting is being called in response to mounting public outrage over circumstances which led to the October 14 banishment of classical music programming on WGKA-AM and which, according to our information, will soon result as well in a basically non-classical format on WGKA-FM.

### WHY YOUR PRESENCE AT THIS MEETING IS NEEDED

It has been alleged by Strauss Broadcasting, WGKA's new owners, that no more than 60 Atlanta area residents have endorsed the Committee's formal petition to the Federal Communications Commission which requests a "stay of effectiveness" on the Commission's August 29 ruling permitting WGKA to change its programming from classical to popular music. (See "Opposition Brief" story in this issue).

On the other hand, it is the contention of the Committee that possibly as many as 40,000\* metro Atlanta area serious music devotees are, in varying degrees of intensity, aggrieved.

\*Based on a national arts commission study which shows that 3-4% of a given area population actively enjoys and supports such resources.

by the loss of such programming from the airwaves and would support the Committee's objectives given the opportunity to do so.

A well-attended public mass meeting will indeed establish that the Committee does in fact represent the sentiments of a substantial number of citizens who, to date, have received no tangible relief of their grievances from either the FCC or Strauss Broadcasting.

The FCC is now presumably considering the Committee's formal petition for a public hearing on the WGKA issue (see "Statement of Policy" and "Amended Petition" stories in this issue).

The greater the number of Atlantans who assemble to endorse the petition the greater will be its impact on the FCC and/or the courts.

This newsletter is being sent to some 3,000 people whose names were garnered from various cooperating sources. Virtually all of these names have previously been associated with informal petitions or letters of protest concerning the WGKA issue. Feel free to copy and distribute this newsletter among others whom you know to be in sympathy with retaining the classical format and other cultural features on WGKA.

On page 3 of this newsletter is a membership form. Please clip it out, fill it in and send it to us immediately whether or not you plan to attend this meeting. Your financial assistance is also welcome and needed. Such assistance however is not a condition of membership.



# Statement Of Policy

The full and formal present name of the Committee is THE CITIZENS COMMITTEE TO PRESERVE THE PRESENT PROGRAMMING OF THE "VOICE OF THE ARTS IN ATLANTA" WGKA-AM & FM (the name used in its petition to the FCC). In view of the WGKA-AM programming change effected by Strauss on October 14, this name has become a misnomer and is no longer appropriate. A resolution to change the name to fit current circumstances will be offered at the November 7 mass meeting.

## STATEMENT OF POLICY

This committee, which we will refer to for brevity's sake as the BROADCAST GOOD MUSIC! COMMITTEE or, simply, the Committee, wishes to make clear its objectives.

### WHAT IS THE BROADCAST GOOD MUSIC! COMMITTEE

The Committee is a semi-formal organization of residents of the Atlanta area who have joined together to preserve the broadcasting of classical and semi-classical music by the community's only full-time source of such music, WGKA-AM & FM. To accomplish this the Committee intends to use all available legal means necessary.

### WHAT ACTION HAS THE COMMITTEE UNDERTAKEN THUS FAR?

On September 26, 1968 the Committee filed with the FCC a formal petition requesting reconsideration of the FCC's docket decision of August 29, 1968 which approved the sale of WGKA and the change of the station's broadcasting format from classical to "foreground" music. The petition, which in no way challenges the sale of the station, alleges that any change in broadcasting format is not in the public interest and requests the FCC to hold a public hearing in Atlanta to determine what is, in fact, the interest of WGKA's listening public and to grant a "stay of effectiveness" of the August 29th action until such time as this question may be finally resolved through a hearing or, if necessary, in the courts.

### WHAT WILL BE THE COMMITTEE'S NEXT MOVE?

This depends upon the FCC's response to the Committee's formal petition. The Committee's legal sub-committee is now conducting research, preparing evidence and collecting testimony which may be used either for public hearing or, if that is not granted, for a judicial proceeding.

### WHO ARE MEMBERS OF THE COMMITTEE?

The Committee is made up of the 2,181 individuals who wrote letters of protest or signed petitions protest prior to the filing of the Committee's September 26th petition, as well as the many who have since pledged support of the Committee's objectives. The thousands of citizens who, though equally opposed to the proposed change in WGKA's broadcasting format, have not yet indicated that they share the Committee's concern would bring them into actual membership.

### WHO MAY JOIN THE COMMITTEE?

The Committee welcomes to its membership all citizens who believe (1) that WGKA's present programming not only offers opportunity for enjoyment but fills an educational and cultural need in this community, and (2) that, as supposed protector of the interest of the general public, the FCC cannot be permitted to have its action of August 29 go unchallenged, particularly since the public outrage aroused by the action has been of such magnitude.

### WHAT DOES IT COST TO JOIN THE COMMITTEE?

There are no dues, but voluntary contributions of money to pay for operating expenses (such as postage, printing, and possible legal costs) are earnestly solicited, as well as contributions of time and special skills (such as typing, telephoning, research, news copy preparation).

### DOES THE COMMITTEE HAVE A FORMAL ORGANIZATIONAL STRUCTURE?

Only insofar as is necessary for the conduct of business. At its initial meeting the approximately 60 members in attendance elected an executive committee consisting of a chairman, a secretary, and three vice-chairmen in charge of finance, membership, and publicity. A legal sub-committee has subsequently been formed, and anyone who wishes to assist the work of this sub-committee is encouraged to do so.

### WILL THE COMMITTEE HOLD REGULAR MEETINGS?

No. Meetings will be called only as developments warrant. Funds permitting, all members will be advised by mail of subsequent general membership meetings and of intermediate progress toward our goal.

### WHAT POSITION DOES THE COMMITTEE TAKE ON THE OWNERSHIP OF WGKA?

It is basically immaterial to the Committee who owns and operates WGKA. The Committee accepts the concept of private enterprise that anyone should have the right to buy or sell property including broadcasting companies. The Committee contends only that because the airwaves are public property the public is entitled to a voice concerning what is broadcast over those airwaves, and that this public voice has been denied a fair hearing. Our objective is that it be given this hearing.

### WHY DOES THE COMMITTEE FEEL OPTIMISTIC ABOUT ITS CHANCES FOR SUCCESS?

In a parallel case decided by a three-judge panel a U.S. Circuit Court has substantially decided that (1) such a citizens' committee has legal standing and (2) the public interest is entitled to a hearing.

This statement has been endorsed by vote at the Committee's October 4, 1968 general membership meeting.

(signed) L. S. Michael S. Humphreys, Chairman  
L. S. James E. O'Leary, Vice-Chairman  
L. S. Howard A. Davis, Vice-Chairman  
L. S. Fred Mills, Vice-Chairman  
L. S. Carol Garner, Secretary

## Committee's Amended Petition Filed With FCC

The Committee came into being concernedly with its initial formal petition (see "Statement of Policy" story in this issue) filed with the FCC September 24.

Since that time, however, the Committee has uncovered evidence of misrepresentation in Strauss' May 17 application to the FCC and has filed an amended petition to the FCC citing this evidence.

According to FCC regulations a broadcaster who wishes to change a station's program format must first conduct a survey of area residents and elicit their opinions as to the public value of and need for the proposed change. In their FCC application Strauss alleged to have interviewed 13 Atlanta area residents, named these persons, and stated that each supported their proposed change from classical music programming on WGKA.

The Committee has since contacted most of these people and has received from six of them sworn affidavits stating that the opinions attributed to them in the Strauss application are not the opinions they expressed when they were interviewed by Strauss representatives. This, in itself, suggests that Strauss' broadcast license for WGKA may have been obtained fraudulently.

## Strauss' Opposition Brief

While the FCC has not yet responded to the Committee's petition (it has 90 days from the filing date in which to do so), Strauss Broadcasting has done so in the form of a copy of an opposition brief filed with the FCC.

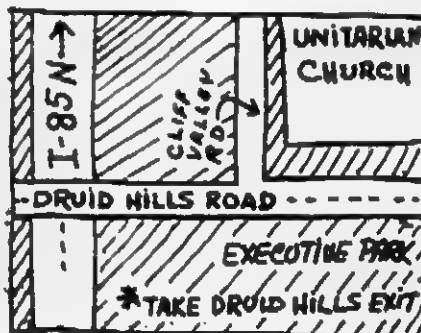
Their brief contends that the Committee's petition represents no more than the 60 people attending the Committee's first organizational meeting held September 27. (That head count, incidentally, was determined by a Strauss spy who allegedly attended the meeting and whose name appears in their brief.) Strauss' brief also accuses the Atlanta newspapers (Journal and Constitution) and a Journal columnist as being the parties responsible for fomenting public opinion against the proposed change of programming on WGKA. According to Strauss' logic (in their brief) these entities envisioned a competitive threat to their own "economic interest" should Strauss effect a programming change to popular music on WGKA.

## How Other Groups May Affilliate With The Committee

The Committee realizes that members of many other civic and cultural organizations in Atlanta may wish their organizations to go on record in support of this Committee's policy statement as given herein.

May we suggest to the membership of such organizations an easy formula to establish such a record.

At your next regular meeting have someone read to your membership this Committee's policy statement. When the resolution is approved, incorporate it into your organization's official minutes. Attach your membership name and address roster to your official minutes and send both to the Committee at P.O. Box 7345, Atlanta, Georgia 30304.



## Judicial Remedy Not Sought

Many people have asked why the Committee has not yet attempted to obtain a federal court injunction to remove the pre-October 14 WGKA-AM programming. Many more will no doubt repeat that question when a change is also effected on WGKA-FM. In both instances the answer is the same: unless and until the FCC officially denies the requests made in the Committee's formal petitions, there still exists the possibility of settlement of the WGKA issue by administrative ruling. Ordinarily a court will require that an administrative dispute be exhausted before making a ruling in a dispute.

It is conceivable that the FCC could take until late December to respond to the Committee's petitions.

## The Possibility Of Boycott

Since the favorable resolution of the WGKA issue through administrative and/or judicial channels may be a relatively time-consuming process, during which period Atlanta will be deprived of the option of having its classical music on their radio, there is growing interest in developing and employing faster methods of recourse. One such method which could be employed is the economic boycott. Two developments particularly have spurred the active consideration of a boycott as an appropriate weapon to help resolve the WGKA issue. The first of these considerations is Strauss' apparent conspiracy for the substance and spirit of the Committee's formal petition to the FCC as evidenced by Strauss' pre-emptive change to popular music on WGKA-AM as of October 14. The second factor is the disclosure of possible fraud in Strauss' May 17 application (see "Assumed Program" story) to the FCC.

Despite these provocations, however, the Committee does not intend to act without first giving those who place advertising on WGKA an opportunity to express their intent to purchase or discontinue the placement of such advertising. No doubt many present sponsors are already determined to discontinue their WGKA sponsorship because they too are outraged at Strauss' tactics, or because WGKA no longer attracts the specific service or simply because they wish to demonstrate their neutrality in what has become an issue of growing controversy.

Accordingly each present WGKA advertiser (plus new ones as they are added by the Committee's regular station monitoring crew) will be sent a registered letter advising that the Committee is weighing the possibility of an economic boycott. The letter will request an expression of intent to discontinue the placement of paid advertising on WGKA. Those advertisers who respond by giving a specific and reasonable date wherein their commercial announcements will be discontinued on WGKA will, of course, automatically be removed from any list of Committee boycott targets. Conversely, those advertisers who fail to acknowledge the letter or do so without also expressing an intent to discontinue the placement of paid advertising will, in the view of the Committee, be giving tacit endorsement of Strauss' position. Such advertisers, if any, will comprise the targets for economic boycott should the Committee ultimately decide to take such action. If a sufficient number of advertisers cease placement of paid advertising on WGKA, Strauss will be deprived of substantial revenues. Whereas previous citizen appeals to Strauss have not worked perhaps a serious loss of revenue will induce Strauss to program broadcast music needed in the community.

# Mass Meeting Nov. 7



## Money & Pledges Needed

At the Committee's only two organizational meetings, those at attendance contributed a total of approximately \$275.00 to help finance the Committee's objectives. By the time this newsletter is released, these funds (apart for postage, printing, etc.) will be exhausted. Additional operating funds will be needed. The Committee needs perhaps an additional \$500 just as "seed" money to keep going. Any free will offering you can make will not only be appreciated but is critically needed NOW!

At this juncture we cannot predict how much in addi-

tional funds will be needed to pay for legal fees and possible travel expenses to Washington by our legal representatives. For this reason we are also soliciting pledges which will be called only if needed and as needed. So, in addition to the cash donations needed now your pledge of future help.

The following form provides a means for you to (1) make a pledge, (2) remit "seed" cash now and (3) support of this Committee's objectives. Please complete and return this form immediately.

FOR FURTHER  
INFORMATION:

233-5816  
237-9941

## \$\$ CAN YOU HELP \$\$

I, the undersigned, wish to reaffirm my membership in the BROADCAST GOOD MUSIC COMMITTEE and support its objectives as outlined in the Committee's Statement of Policy.

( ) Enclosed is my check for \$\_\_\_\_\_ to help defray the Committee's growing need for "seed" money.

( ) I hereby pledge \$\_\_\_\_\_ expressly for possible legal fees and expenses which the Committee may require later. I understand this pledge will not be called on now and until it is actually needed for such purposes.

PLEASE PRINT

NAME

ADDRESS

CITY

ZIP

(signed)

Mail to: BROADCAST GOOD MUSIC COMMITTEE  
P.O. Box 7345  
Atlanta, Georgia 30309

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ATLANTA  
PRESS:

# strauss misrepresentation

## WGKA Swingled

Statements attributed to six Atlantans in Strauss Broadcasting Company's FCC-approved application to change the musical format of radio station WGKA are false, the six have charged.

The six are among 13 "prominent Atlantans" cited as favoring the change from classical to popular music in the Dallas company's May 17 application to the FCC. One of them, Fulton County Schools Superintendent Dr. Paul West, called the Strauss claim "pure chicanery."

"Some conniving individual has desecrated my name and the principles for which I stand in all matters that relate to cultural uplift and development," West said. Nothing is "more uplifting or more needed" than the classical music WGKA has provided, he added.

The other five are Fulton County Commissioner Walter M. Mitchell, Rabbi Jacob M. Rothschild, Atlanta City Attorney and Emory University Board Chairman Henry Bowden, former Atlanta Rotary Club President Frank L. Carter, and former Civitan Club President J. Robert Watson.

In sworn affidavits, most of the six admitted being visited by a Strauss official. But they say they thought the visit was a social or personal call, that they were not told of Strauss's plans to end classical music on WGKA, or to use their names in the application to the FCC; and that they do not approve the format change, and never said they did.

This collides head-on with the Strauss application, which said of its contacts with the 13 "In each instance we explained in detail our (planned) format. . . no secret was made of the fact that we were proposing to acquire stations WGKA and WGKA-FM. . . In every instance, our plans were looked upon with favor and we were told that we would be providing a needed service to the community. . ."

BOB GOODMAN

Great Speckled Bird, Issue No. 20

## West: No Role in Radio Plan

Dr. Paul West, superintendent of the Fulton County Schools, has denied he ever endorsed a Strauss Broadcasting Co. proposal to substitute popular for classical music programming on WGKA-AM and FM. He disavowed a sworn affidavit [sic] dated Oct. 10 to substantiate his position.

Dr. West made public the affidavit [sic] at a press conference conducted by Broadcast Good Music Committee, a citizens committee to preserve the classical music format formerly used by WGKA-AM and FM.

Dr. West made public the affidavit [sic] at a press conference conducted by Broadcast Good Music Committee [sic], a citizens committee to preserve the classical music format formerly used by WGKA-AM and FM.

West was cited at the press conference as one of 13 prominent Atlantans favoring the change of broadcast format on WGKA in a May, 1966 application filed with the FCC by Strauss Broadcasting, which has since received FCC approval for the purchase of the station and which has subsequently changed the format of WGKA-AM, while the classical format has been continued on the FM outlet.

Reading from his affidavit [sic], Dr. West said: "Some conniving individual or individuals has, or have, desecrated my name and principles for which I stand in all matters that relate to cultural interest and development."

West's affidavit is being filed with the FCC as part of an amended citizens petition requesting a "stay of effect" of the August 29 ruling and a public hearing in Atlanta.

The sale of WGKA-AM and FM was opposed by a group of private citizens here. Some 2,181 signed protests, but the FCC voted, 3 to 1, to approve the station's programming change and granted Strauss a broadcasting license for WGKA.

The Atlanta Constitution, Tuesday, October 22, 1966

### Broadcast Good Music Committee

(The Citizens Committee to preserve the present programming  
of the Voice Of The Arts in Atlanta: WGKA - AM & FM.)

P. O. Box 7345

ATLANTA, GA. 30309

Phone: 233-5816-237-9941

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## REMEMBER NOVEMBER 7

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CONFIDENTIAL - FURNISH TO CONGRESS ONLY  
 DURING THE PRESENT PERIOD OF DISCOVERY

In support of a resolution of the National Board of Directors set forth as exhibits the affidavit of Mr. John H. Smith, Vice President of Standard Oil Company, Chicago, Mr. H. H. Smith, summaries of his interviews with each of the [redacted] and letters by each leader concerning the [redacted] summaries.

In support of continuation of the M... .. forth as exhibits a number of further interviews with ... members of the Atlanta and ... .. and the ... .. Marketing and Research ... ..

*[Faint, illegible handwritten notes]*

1. Petitioner's Amendment to the Petition, with the supporting affidavits, sets forth specific misrepresentations made to the Commission by Petitioner. It was filed at the earliest time possible and immediately upon discovery of the attached evidence. The existence of such evidence could not have been discovered by the Petitioner prior to the expiration of the 30-day deadline of Section 401 of the Act and Section 1.106 of the Rules. When counsel was retained by the Committee for the purpose of seeking a reconsideration of the Commission's decision in this matter he had but a few days within which to file a petition. At that time the only information available to counsel was that Strauss Broadcasting Company through Mr. Ben Raylett had conducted a survey of 17 community leaders and had represented that each was informed of the proposed program change from classical to popular music and each had expressed the opinion that said change would serve the public's interest. On October 2, 1961, counsel wrote a letter to Mr. Ben F. Kaple, Chairman and copy of the



application.

4. Petitioner wishes to note that the Amendment and its exhibits are specifically incorporated by reference in its request for a stay of effectiveness filed on October 2, 1968 and in its reply to Strauss's opposition to the petition for reconsideration filed October 18, 1968. Both of which are already properly before the Commission and not subject to reconsideration of the Commission's decision on this Motion. Therefore, Petitioner assumes the Amendment and its exhibits are part of the official record in this matter.

4. If the Commission does not agree with Petitioner's contentions, Petitioner requests that for the reasons stated above, the Commission will act favorably upon its separate pleading requesting leave to file said Amendment made pursuant to Section 1.10e(1) of the Rules.

JOHN STRAUSS, JR. vs. FCC  
Case No. 68-1000  
Writ of Habeas Corpus

5. In Strauss's Amendment of May 17, 1968 filed subsequent to its original application, on pages 4 and 5 thereof he states the following to the Commission:

"No secret was made of the fact that we were proposing to acquire stations WOKA and WOKA - FM which program classical music. In no instance was concern expressed to us about our proposed change in the station's musical format. In every instance, on the other hand, our plans were looked upon with favor and we were told that we would be providing a needed service to the community of a type not now being provided."

6. Strauss's Exhibit 'A' attached to its Motion to Strike contains letters and summaries of interviews, none of which relate to the accuracy of the above mentioned representation. Furthermore, the letters of 3 of the 13 are not included and if such an inaccuracy exists as to even one of the 13, the statements above as they relate to all of the 13 are not veri-

1.00.

2. With the letter an summary of interview of Mr. Walter M. Mason, I attached Strauss's Motion. Mr. Mitchell stated that the last paragraph of Mr. Haylett's summary did not accurately reflect his conversation which related to his musical preferences and stated that: "I think I also told you that I would consider a change being made in the type of music played on station WMA."

The summary of Mr. Henry D. Bowden's interview notes that Mr. Bowden felt the station had a good image. Mr. Bowden's letter to Mr. Haylett of October 14, 1964, states:

I have reviewed the summary of a conversation which you and I had in 1963, as presented by you, and have sought to determine whether or not it correctly reflects our conversation. I generally find the content of conversation with the exception of the fact that I have no recollection of a discussion, and of proposed changes in the station's programming.

This misrepresentation of the facts of the issue and makes the representation of the facts of the issue inaccurate.

In the course of Mr. Haylett's interview, the Commission's attention is directed to the letter of October 25, 1964, to Mr. Haylett from Paul West, M. D. (Dr. West).

Mr. West stated, failing to get a letter from Dr. Paul D. West, M.D., M.D., Superintendent of Schools, wrote Dr. West a letter, a copy of which is attached to the Strauss Motion as Exhibit 11. In this letter, Mr. Haylett stated:

If you can see in the summary, does not in any way give you an opportunity to change in fact. As a matter of fact, the statement reflects your statement with and approval of the fact of the statement.

Now, the Commission does not believe that the statement that "I have no recollection of a discussion, and of proposed changes in the station's programming" is accurate.

The Commission should note that nowhere in Mr. Haylett's summaries does he state exactly what Strauss's "proposed program" was.

~~program~~ and in " was at that time or exact y what concerning said program was mentioned to each of the 11 interviewees.

8. STRAUSS'S CONTINUING EFFORT.

8. Little need be said about Strauss's Exhibit "C", which made by Mr. James L. Dodo of interviews with more Atlanta citizens. Exhibit "C" indicates nothing more than the personal preferences of 6 individuals in Atlanta selected and questioned by an agent of Strauss. As such, it is certainly a meager effort on the part of Strauss to ascertain Atlanta's broadcast-in needs.

9. Strauss included in its Motion to Strike a professional market survey report made by Marketing and Research Consultants, Inc. It calls as the result of said professional survey that the Atlanta public's preference in terms of percentage, for varying forms of music is as follows:

- 40% preferred Popular Standards
- 35% preferred Pop-Fort. hits
- 29% preferred Broadway show tunes
- 24% preferred Movie themes
- 23% preferred Country and Western
- 15% preferred Novelty tunes
- 15% preferred Symphonic Music
- 8% preferred Ballet Music
- 6% preferred Operas

The survey is set forth in the Motion to Strike as Exhibit "P".

10. Petitioner maintains that this survey and its results are inadequate and fallacious, and that the survey was in the very way it was conducted, biased and calculated to reach a desired result.

11. The preface to the survey at page 2 of Exhibit "P" indicates that "any totals that exceed 100% indicate that there were multiple answers to the particular questions." This explains why the result of percentage preference totaled 195%. The percentage figures indicate, however, that most multiple answers must have been given with reference to non-classical



music categories listed in these items would limit the total to a total in excess of 100. This gives rise to the first question: is there in the survey a limit on the music categories selected? The only answer is that the categories represent a broad area of music and the "standard" and "country and western". All of the categories in the musical categories can be included in the first two broad classifications. Thus a Broadway show tune that is a movie and appearing in the Top Forty could be included in the "standard" category. Note that classical music was not included as a category. It was presented in a separate section of the survey exclusively categorized as symphonic music, called "classical music". All three are part of classical music and even if this were valid 1% of the Atlanta public would prefer classical music and their preference would thus equal the preference of the public in hearing Broadway Shows.

10. Another fallacy in the survey is that rather than trying to ascertain what programming is best in Atlanta, in view of the already existing program formats, which best serve the Atlanta interest, the objective of the survey was to determine the public's preference among Atlanta adults, as opposed to different age, location.

11. The survey was conducted with a sample of 102 Atlantans selected by a systematic method from the telephone directory in Atlanta. The 102 and they were contacted by telephone and asked prepared questions. But, exactly what "systematic method" was used to select 102 Atlantans, or in what way these 102 accurately represent the entire listening public is not explained. The results, therefore, are not properly qualified. The interviewers went through a briefing session. What were they told? 10% of the interviewer's work was verified. Who performed the verification and how was such verification performed? Exactly what questions were asked? Some

appear in the exhibit, the rest are on file with the research firm. Petitioner thinks the Commission should request this information before it relies upon the results of this survey.

14. Three of the questions asked those 322 in Atlanta appear on page 8 of Exhibit "B". The first question asked the respondent to express a preference as to one of three areas: Top Forty hits, Movie Themes, or Ballet. In this question 3 broad areas of music were pitted against one particular facet of classical music. The same thing was done in the other two questions. The framing of questions and the context and tone of the question can be cleverly manipulated. Petitioner maintains that if it were to conduct a survey of its own in a manner similar to this survey, it could reach the opposite result.

15. Even if the survey were accurate, Petitioner represents to the Commission that since the interest of those preferring classical music is equal to the interest of those preferring Broadway Hits, third in the order of preference, this survey, although not valid, itself indicates that the programming of a radio station in an area as large as Atlanta which has ample radio formats in all areas of music except classical music, would not serve the public's interest by duplication of some of other radio formats, but would serve the public's interest by broadcasting Atlanta's only classical music format.

16. Petitioner calls the Commission's attention to an article about Commissioner Nicholas Johnson in the October 1968, issue of Forbes Magazine at page 111:

"I think Ralph Nader spoke for the people's desire to participate in the decisions about a technology that affects their very life. This is the same spirit we see in private citizens who try to stop the bulldozer from constructing a highway through a national park."

Johnson intends to keep the TV industry aware of all this. He rejects the argument that banal programming is democratic because "it gives the public what they want," says Johnson; "the broadcasters who say this miss the point. The people must be offered real alternatives. They want to choose between more than just three different Rock-and-Roll stations or three Westerns. Once the public can be made aware of the full spectrum of

are from the press. It is not that they are in a position to tell anything but the truth.

The people should also know that the owners and operators of their local stations are in effect the only public officials. They are using their position to the people to make private profit and they must stand election every three years when their license expires.

17. In contrast to Strauss's continual effort to ascertain and serve the needs of the Atlanta public in its recent action reorganization WMAZ's previously all classical music programming on November 12, 1954, and leaving Atlantans with no exclusive classical music station. This action is indeed contrary to Strauss's excellent and publicized representations to the Atlanta public in its total disregard of the present proceedings before the Commission, and rather than serving the public's interest has caused even more of public indignation.

18. The Commission's membership, in the meantime, has grown steadily and at a rapid pace. Everyday more individuals and organizations are joining the Commission. Petitioner feels sure that the Commission has served as a buffer for the Commission since many of the individuals and organizations which would have contacted the FCC directly have decided to do so indirectly through representation to the Commission. It is impossible for Petitioner to include in this hearing, and absent a public hearing, all such organizations it has received and the total extent of its present membership since the classical work is far behind. However, Exhibit A attached hereto is submitted as an example of the type of response it is receiving continuously from the public. Exhibit A demonstrates how the Atlanta Music Teachers Association, one of Atlanta's leading educational organizations and now a member of the Commission, feels. Petitioner directs the Commission's attention to the names of these individuals who are honorary and active members of this organization as it might recognize some of the organization's members.

19. The Commission has informed the Commission of Strauss's misleading representations made to the Commission. What is even

more representative and illustrative of the manner in which Strauss is serving the Atlanta public's interest in its file records, representations made to the public after the sale of the station attached hereto, is a copy of an article published in the September 5, 1963, Atlanta Constitution, which states in pertinent parts:

"Dan Hayslett, executive vice president of Strauss Broadcasting, said Thursday the new owners had intended all along to continue the classical format. But, he said, they were not at liberty to disregard such matters with the press or public until FCC approval for the sale was granted.

"No one ever bothered to study our application," said Hayslett, who referred to new FM radio outlets of the proposed sale.

"We are happy to bring to Atlantans a full-time classical station," said Hayslett. "It will be just as it is now--only better. There has been no intention all along."

"I've went on to say that Atlanta would continue to be one of the few cities in the country to have a full-time classical FM operation."

After the FM program change was made on November 13, 1963 Strauss representatives attempted to place the change upon the Federal Communications Commission's decision and its Washington attorneys, as evidenced by Exhibit "C" attached hereto.

"Yet, when Dodd was contacted on Monday about the sudden, unceremonious change from serious to pop format, said that the firm was told by its attorneys in Washington to convert its AM as well as its FM operation to 'pop.'"

Dodd said he was told by the attorneys that the application to the FCC stated that both the FM and AM operations would play principally show-tunes, 'old favorites' and the like. 'And he told us we had better conform' to the letter of the application, Dodd said."

[Mr. Dodd is the general manager of WOKA-AM & FM]

In early September Strauss Broadcasting Company informed the public that if it had studied Strauss's application, the public would have known all along that the new owners intended all along to continue the FM all classical music format. Now, in November, Strauss would have the public believe that even though it desires to continue broadcasting an all classical music format on FM, its Washington attorney is forcing it to change its format to conform with Strauss's application and

[illegible][illegible]

7.

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20. In addition, it is also noted in Exhibit "C" that so truly intended to maintain full time residence outside of the U.S. would have except for his attorney's advice to remain in the application and the Commission's order and decision upon appeal. It would serve Strass's interests and desires, as well as conform to the original intent for the Commission to grant a stay, grant a reconsideration, and conduct a public hearing, as has been urged by petitioners.

WHEREFORE, Petitioner respectfully requests that the "Amendment to Petition for Acceleration and for a Public Hearing" not be stricken or dismissed and that the Committee's "Petition for Acceleration and for a Public Hearing" be forthwith granted and a stay of Effectiveness issue.

## WORKING WITH THE EDITORS

33

[illegible]

1. DATE OF RECEIPT  
2. NAME OF THE PERSON RECEIVING  
3. ADDRESS OF THE PERSON RECEIVING  
4. PHONE NUMBER OF THE PERSON RECEIVING

31. November 1862  
Königsberg  
Hilfmann

707 Henley Building,  
Atlanta, Georgia 30303  
404-521-1282

Atlanta, Georgia

Vrs. A. J. Jones, Jr., Chairman  
Board of Directors  
Atlanta, Georgia

Dear Mr. Jones,

Attached is a resolution adopted by the Atlanta Music Teachers  
Association on the subject of the Atlanta Music Teachers  
Association's position on the subject of the  
General Association of Music Teachers which permits NCA-AM & PM  
to receive and to present in a classical to a larger scale without  
the usual restrictions of the NCA-AM & PM.

As a result of the resolution, the Atlanta Music Teachers  
Association is now a part of the NCA-AM & PM.

Please be assured that the efforts of your committee have the  
full support of the Atlanta Music Teachers Association and of  
its individual members.

Yours truly,

Edith B. Miller

Vrs. Edith B. Miller  
Corresponding Secretary  
Atlanta Music Teachers Association

1970 Avenue B, S.W., N. A.  
Atlanta, Georgia 30331  
351-1111

Enc. 1A 73

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#### A R E S O L U T I O N

WHEREAS, the Atlanta Music Teachers Association, comprising 101 active members together with 5 honorary members, is dedicated to the encouragement of high standards of music teaching in the Metropolitan Atlanta area. It also sponsors advancement of music as part of our cultural heritage and fosters activities among its members and with the people of this area toward these ends; and,

WHEREAS, the Association deplores the recent ruling by the Federal Communications Commission permitting a change in the long standing programming of Station WGKA-AM & FM from classical music to "foreground" or popular music; and,

WHEREAS, it is desirable to voice the indignation of the Atlanta Music Teachers Association to the action and ruling of the Federal Communications Commission permitting such program format change of Station WGKA-AM & FM without giving the public adequate opportunity to be heard on this issue; and

WHEREAS, the statement of policy issued by the Broadcast Good Music! Committee has been reviewed by the executive committee of this association and was discussed by the members at the general meeting of the Association held November 4, 1968 where same was favorably considered by the Association;

NOW, THEREFORE, BE IT RESOLVED by the Atlanta Music Teachers Association that it joins the Broadcast Good Music! Committee in mutual effort to bring about reconsideration by the Federal Communications Commission of its decision of August 29, 1968 which authorized the change in the broadcasting format of Station WGKA-AM & FM from classical music to "foreground" or popular music.

Exhibit "A"

7-

BE IT FURTHER RESOLVED that the Federal Communication Commission should be urged to grant a public hearing on this vital issue.

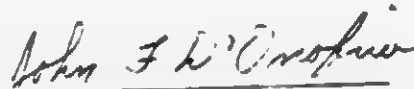
#### C E R T I F I C A T E

I, John F. D'Onofrio, Secretary of the Atlanta Music Teachers Association, do hereby certify that the foregoing resolution is a true, accurate and complete copy of the resolution duly adopted by the Atlanta Music Teachers Association at its regular meeting held on the 4th day of November, 1966, and recorded in the minutes.

Such resolution is still in full force and effect.

I further certify that the <sup>attached</sup> list of honorary members and active members of the Atlanta Music Teachers Association is complete and accurate according to the roster of membership kept by me.

In witness whereof, I have hereunto set my hand this 5th day of November, 1966.

  
John F. D'Onofrio  
Secretary

# ATLANTA MUSIC TEACHERS ASSOCIATION

1968-1969

## HONORARY MEMBERS

Blanche Thebom . . . . . Artistic Director  
1222 Peachtree St., N. E. 30306 . . . . . Atlanta Opera Company

Robert Shaw . . . . . Music Director and Conductor  
1280 Peachtree St., N. E. 30309 . . . . . Atlanta Symphony Orchestra

Fletcher Wolfe . . . . . Director  
P.O.Box 11605, 30305 . . . . . The Atlanta Chamber Opera Society, Inc.

Dr. Chappell White . . . . . Music Critic  
Department of Music . . . . . Atlanta Journal-Constitution  
Emory University 30322

William Weaver . . . . . President  
3450 Spalding Dr., 30338 . . . . . Atlanta Music Club

## ACTIVE MEMBERS

Mrs. William Anderson 3076 Janice Circle Chamblee, Ga. 30005 457-4876	Miss Carolyn Bridger 1717 N. Decatur Rd., N.E. 30307 377-2930
Mrs. James Albright 570 High Point Lane, N.E. 30305 255-3736	Mrs. Edith Brown 84 Inman Circle, N.E. 30300 872-4850
Mrs. Roger W. Allen 1055 Stovall Blvd., N.E. 30319 237-2534	Mrs. Louis F. Bunte 321 Fineland Road, N.W. 30304 237-5001
Mrs. N. W. Bath 1889 Greystone Rd., N.W. 30318 351-2766	Mr. Charles Busch 2160 Stewart Ave., S.W. 30315 766-1708
Mrs. Howard Bettis 140 Johnson Drive Doraville, Ga. 30040 457-8359	Mr. Jack Butler 1461 LaVista Rd., N.E. 30324 636-2201
Mrs. Julia S. Black Rt. 1, Stone Mountain, Ga. 30083 482-8415	Mrs. Walter C. Carter 3889 Whittington Dr., N.E. 30305 237-5343
Mrs. Lee W. Blitch 507 Emory Cir., N.E. 30307 373-3216	Mrs. Gordon Catts, Jr. 4 Polo Drive, N.E. 30300
Mrs. Charles Bradley 6850 Castleton Dr., N.E., 30328 255-4100	Mrs. Elsie W. Covington 4000 Northside Dr., N.W. 30305 233-1900
	Mrs. W. Leon Cox 104 Carson Dr., Smyrna, Ga. 30080 434-1700

Mrs. Ernest B. Justice, Co.  
1401 Washington Highway Bldg., N.E.  
30339 377-2376

Mrs. E. A. Dean  
130-2 N. Washington Bldg., N.E. 30305  
377-2376

Mrs. Alma Tenner DeGray  
1233 Astor Villa Bldg.  
Alpharetta, Ga. 30201  
175-1400

Mrs. A. J. DeGardine  
1201 Jonathan Bldg., Apt. A-1  
Atlanta, Ga. 30223

Mr. John E. DeLoof  
20 Brandon Ridge Dr., N.W. 30325  
252-5552

Miss Mary C. Douglas  
20 Third Street, N. W. 30305  
372-5741

Mrs. J. E. Downs  
3561 Mt. Gilman Pl., C.W. 30331  
377-1597

Mr. John E. Elvin  
2-5 Forrest Lake Dr., N.W. 30327  
252-1730

Mrs. C. T. Elyea  
940 Springdale Pl., N.E. 30306  
377-2520

Mr. Jerry H. Enderidge  
1663 E. Clinton Pl., 30307  
377-3976

Mrs. Betty G. Folger  
3463 Foxcroft Pl., N. E. 30326  
233-7521

Mrs. Anne M. Fowler  
663 Darlington Circle, N.E. 30305  
233-7555

Mr. Jay C. Fuller  
100 Montgomery Ferry Dr., N.E. 30309  
875-1443

Mrs. Edith B. Gillon  
1906 Ardmore Rd., N. W. 30309  
351-6006

Mrs. Carol Golden  
2325 Melante Dr., N. E. 30324  
261-8117

Mrs. Gertrude Graham  
374 E. Paces Ferry Rd., N.E. 30309  
233-3723

Miss Mary Gwyn  
1601 St. Gordon St., S.W. 30310  
762-1341

Miss Alice Gray Harrison  
12 Golf Circle, N. E. 30309  
372-2-13

Mrs. William L. Hansard  
2155 Beecher Circle, S.W. 30311  
762-2-40

Mrs. John R. Hellams, Jr.  
203 Tenth Street, N. W. 30309  
377-4507

Dr. Oliver Hercert  
1435 Anjaco Road, N. W. 30309  
351-703

Mrs. A. F. Hess  
233 Fourteenth St., N. E. 30309  
372-3445

Mrs. Marion Hildreth  
200 Runson Road, N. E. 30305  
237-2674

Mrs. Sarah Brown Hillerman  
1130 Lullwater Rd., N. E. 30307  
375-5550

Dr. Hugh Hodgson  
1311 W. Paces Ferry Rd., N.W. 30327  
233-3551

Miss Celia G. Hudson  
1511 Windemere Dr., N.E. 30324  
874-5955

Mrs. Esther A. G. Jackson  
P.O. Box 306, Roswell, Ga. 30075  
763-6224

Miss Betty Kennedy  
3703 Peachtree Rd., N.E., Apt. F-1  
237-2550

Miss Kate Land  
1196 Fairview Rd., N. E. 30306  
373-7187

Mr. Theodore G. Lange  
2423 Hazlewood Dr., N.E. 30329  
375-7159

Mrs. Lela Langford  
2417 Beecher Rd., S. W. 30311  
765-7552

Mrs. M. T. Lawrence  
1466 Norman Perry Dr., East Point, Ga.  
30344 767-3321

Mrs. F. O. Lewis  
461 Emory Circle, N.E. 30307  
375-7201

Dr. William Lemonds  
Emory University 30322  
377-2411

Mrs. C. L. Little  
316 Collier Dr., Smyrna, Ga. 30080  
435-4369

Mrs. J. M. Luckey  
2479 Peachtree Rd., N.E. 30305  
237-0010

Mrs. K. Eugene Martin  
1677 E. Walker Avenue  
College Park, Ga. 30337  
766-6125

Mrs. Gladys M. Matheson  
3572 Roswell Rd., N.W. Apt. D-2  
30305 237-2417

Mrs. Peggy Jordon Mayfield  
1275 Shanter Trail, S.W. 30311  
344-6103

Mr. Michael McDowell  
59 Inman Circle, N.E. 30309  
892-8856

Mrs. Gertrude McFarland  
1650 Nottingham Way, N.E. 30309  
874-0743

Mr. Archie Mosely  
21 Maddox Dr., N. E. 30309  
872-1463

Mrs. Ralph Murphy  
2027 N. Ridgeway Rd., N.E. 30329  
634-3957

Mrs. Mary Ann Mylius  
1752 Monroe Dr., N.E. 30324  
874-5317

Mrs. Fred Nash  
1695 Noble Dr., N. E. 30306  
875-3134

Mrs. Fred L. Nolting  
153 Laurel Forest Circle, N.E. 30305  
237-8056

Mrs. Alma Lilly F. Northway  
10688 Eagle Drive, Jonesboro, Ga., 30236  
478-5494

Mrs. J. C. Newton  
762 Brookridge Dr., N.E. 30305  
872-8367

Mrs. J. M. Paget  
525 Pilgrim Mill Rd., Cumming, Ga.  
30130

Mrs. James H. Pittman  
1025 Spring Rd., Apt. F-11  
Smyrna, Ga. 30080  
435-2876

Mrs. Robert Price  
Route 1, Fayetteville, Ga.  
30214 -61-33-2

Mrs. Waymon Pakestraw  
2299 Snasta Way, N.E. 30329  
636-6352

Mrs. C. E. Rowland  
433 Haas Ave., S.E. 30316  
666-2365

Mr. John Schneider  
3130 New Faces Ferry Rd., N.W.  
30327 -35-40-5

Mrs. Jane S. Seidman  
156 Ridley Circle, Decatur, Ga.  
30030 377-7-20

Mrs. Marian H. Sharp  
1327 Peachtree St., N.E. 30309  
692-0865

Mrs. Charles Shepherd, Jr.  
3614 Keswick Dr., Chamblee, Ga.  
30005 457-70-9

Miss Beulah Shirley  
2025 Peachtree Rd., N.E., Apt. 1121  
30305 351-4130

Mr. Donovan Schumacher  
1193 Rosedale Rd., N.E. 30306  
874-9422

Mrs. Pierpont Spiker  
2011 Elliott Cir., N.E. 30305  
237-4414

Mr. R. T. Staton, III  
Route 1, Dallas, Ga. 30132  
445-4181

Mrs. Lillian S. Stowers  
5970 Lake Forrest Dr., N.W.  
30328 2-5-1187

Mrs. J. A. Sudderth  
541 Woodbourne Dr., S.W. 30310  
755-1850

Mr. William Sweitzer  
3800 Wileuca Rd., N.E. 30305  
237-2716

Mrs. Margaret R. Talmadge  
991 Dean Dr., N.W. 30318

Mrs. Joseph Targley  
Rt. 1, Box 118, Fairburn, Ga.  
30212

Mrs. Bill. Annett Taylor  
471 Park Ave., N.E. 30312  
322-2776

Mrs. Gerald Thurman  
111 Longford Dr., N.E. 30305  
321-1113

Miss Elizabeth Tipton  
210 Pine Street, N.E. 30309  
322-7777

Miss Marie Tinsina  
1 Ansley Dr., N.E. 30319  
322-1311

Mrs. Paul Wickers  
3101 Amelia Rd., N.E. 30305  
233-3237

Mrs. Van G. Wall, Jr.  
1115 Clifton Dr., N.E. 30306  
373-1377

Mrs. Troy Wheeler  
3030 N. Stratford Rd., N.E. 30305  
237-4173

Mrs. Paul A. Wiles  
26- Canterbury, Ga.  
Forest Park, Ga. 30050  
363-1352

Mrs. Ruth Williams  
133 Dove Forest Lane, N.E. 30305  
255-5310

Mrs. Stephen Willet  
1196 Clifton Dr., N.E. 30307  
373-3330

Miss Elizabeth Young  
63 Lafayette Dr., N.E. 30305  
392-3153

Mrs. C. G. Connell  
211 E. Wesley Road, N.E. 30305  
233-6672

Mrs. Leonard Elliott  
2835 N. Fulton Dr., N.E. 30305  
237-0526

Miss Elizabeth Hildreth  
260 Rumson Rd., N. E. 30305  
237-2074

Mrs. William Pavlovsky  
1410 Mountain Creek Rd., N.E.  
30326

Mrs. Fred Reed  
1113 Hagler Ave., N. E. 30304  
321-1140

Mrs. Brewell Scott  
2111 Maple Place, N. E. 30305  
237-0432

Mrs. A. E. White  
100 Candale Rd., N. E. 30307  
322-7255

## FCC Okays Sale Of WCKA Station

The sale of WCKA-AM and FM to the Strauss Broadcasting Co. has been approved by the Federal Communications Commission and the new owners said Wednesday they plan to continue the FM station's full-time classical format.

As a matter of fact, Dan Hayslett, executive vice president of Strauss Broadcasting, said Thursday the new owners had intended all along to continue the classical format. But, he said, they were not at liberty to discuss such matters with the press or public until FCC approval for the sale was obtained.

"No one ever bothered to study our application," said Hayslett, who referred to news items critical of the proposed sale.

We are happy to bring to Atlanta's full-time classical station, and the fact that we will be able to do so only after this has been our intention all along.

He went on to say that Mc-

Int'l would continue to be one of the few cities in the country to have a full-time classical FM operation.

The sale is expected to be finalized soon. The station was purchased from Bart Isbell, Bill Jones and Locke Glenn, representing Glenkaren Corp.

Exhibit "B" 180



## FCC PLAN BLAMED

# WCKA-FM 'Pop' Proposed

WCKA—Radio Monday provoked a new wave of controversy when it scrapped the classical music format on its FM operation and substituted a pop format throughout most of the day and the early evening.

The station became the center of a controversy when it first became known Strauss Broadcasting Co., a Texas-based firm, had made application with the Federal Communications Commission to purchase the station from an Atlanta group which had owned it since it went on the air. The Texas firm said it made it known in its application that it intended to change the format of the station — at least on AM.

A protest committee was organized and a total of 2,181 persons wrote to the FCC protesting the move. The FCC granted application to Strauss Broadcasting for the purchase of the station which operated both AM and FM outlets, offering serious music on both.

## FCC BLAMED

Immediately after the sale was approved by the FCC, Jim Dodd, who was made general

manager of WCKA AM and FM, said that the station planned to come on with the serious music format on FM which operates night and day but to change the AM operation which formerly only from 11 p.m. to 5 a.m. to pop music.

Don Hayslett, executive vice president of Strauss Broadcasting, said at the time, "No one ever bothered to study our application." He went on to say that the firm had planned from the outset to return to serious music format on the FM station.

## COURT ACTION

Yet, when Dodd was contacted on Monday about the sudden, unceremonious change from serious to pop format, he said the firm was told by its attorneys in Washington to convert to FM as well as to AM.

Dodd said he was told by the attorneys that the application to the FCC stated that both the FM and AM operations would play pop music, "oldies" and "newies." And he told us we had better conform to the letter of the application, Dodd said.

A citizens committee, mean-

while was preparing to put something further, possibly referring to court action to force the FCC to let the station operate on the same format.

Dodd, at the same time, reported that WCKA-FM, which is owned by the Strauss Broadcasting Co., and supervised by the Board of Directors, is converted to a station in its office. He said the Atlanta Public Library had considered applying for an FM station, to be used for the same purpose. The station would convert to AM, but in any with a complete car radio format.

Exhibit "C" 181

# THE ATLANTA CONSTITUTION

*For 101 Years the South's Standard Newspaper*

RALPH MCGILL, Publisher



REG. MURPHY, Editor  
Editorial Page

PAGE 4

WEDNESDAY, NOV. 13, 1968

## *Pop Goes the FM*

Atlanta, which used to have two, suddenly is a city without a single full-time serious music station.

In fact, it may be the largest city in America without such programming.

We believe that the new owners of WGKA and WGKA-FM have not been candid with us or with the community.

In the face of the public opposition that arose from their petition to the Federal Communications Commission to change from serious to "pop" music, the ownership pledged to continue good music full time on FM. Only two months ago, this newspaper expressed its relief that at least this much would be saved for the city.

Now, without notice, WGKA-FM has gone pop. We are not opposed to such music. It's just that we believe the public airways should offer enough variety to please all segments of

the public. There already are several pop stations. There are rock stations. There are soul-music stations. There is a talk station. But there is no longer any serious music on a full-scale basis. Why?

WGKA's owners say they have now been advised by their lawyers that their petition to the FCC commits them to pop broadcasting both AM and FM. We find it a rather odd time for the station just to be discovering that.

WGKA's owners have a right to seek to broadcast whatever they like. But the FCC has a duty to protect the public interest, and in view of the confusion surrounding WGKA's application, the FCC should review the case.

In the meantime, we should begin giving more serious attention to Atlanta Public Library director Carlton Rochell's proposal that the library assume the function of broadcasting good music.

Exhibit "D"

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Item 20

SECTION TWO  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE

TO PRESENT THE PRESENT CASE ADMIN. FILE NO. WFO-5580

OF THE CITIZENS COMMITTEE TO THE CITIZENS

COMMITTEE TO THE CITIZENS COMMITTEE

ADMIN. FILE NO. WFO-5580

COMMITTEE TO THE CITIZENS COMMITTEE

ADMIN. FILE NO. WFO-5580

ADMIN. FILE NO. WFO-5580

ADMIN. FILE NO. WFO-5580

ADMIN. FILE NO. WFO-5580

ADMIN. FILE NO. WFO-5580

REQUEST FOR LEAVE TO  
FILE AN AMENDMENT TO  
THE CITIZENS PETITION  
FOR RECONSIDERATION AND  
A PUBLIC HEARING

REQUEST FOR LEAVE TO AMEND

Petitioner respectfully requests the Commission to grant the Committee a leave to file an amendment to the petition for reconsideration and a public hearing, which was filed by the Committee on October 14, 1955, for the following reasons:

Before the Commission, which dealt with the matter, an affidavit was filed in which a representation was made to the Commission by counsel, who filed at the earliest time possible and immediately after discovery of the attached evidence; the existence of such evidence could not have been discovered by the Petitioner prior to the expiration of the 30 day deadline of Section 105 of the Act and Section 1.105 of the Rules. When counsel was retained by the Committee for the purpose of seeking a reconsideration of the Commission's decision in this matter, he had but a few days within which to file a Petition. At that time the only information available to counsel was that Strauss Broadcasting Company through Mr. Dan Haylett had con-

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from the original

ducted a survey of 13 community leaders and had represented that each was informed of the proposed program change from classical to popular music and each had expressed the opinion that said change would serve the public's interest. On October 2, 1968, counsel wrote a letter to Mr. Ben F. Naple requesting a copy of the record in this matter at Petitioner's expense. Counsel later filed a Request for Extension of Time which informed the Commission that the pleadings referred to in the record not furnished Petitioner. Petitioner has yet to receive a copy of those pleadings requested. After the original Petition was filed and assent access to the official record, counsel for the first time had an opportunity to contact and interview some of the 13 community leaders and promptly discovered that Strauss's representations were inaccurate as to the nature and content of the interviews. Immediately thereafter, the Amendment, containing the result of Petitioner's contact with community leaders, was prepared and filed.

WHEREFORE, Petitioner prays that this Request for Leave to File an Amendment be granted.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

BY

*Henry Daniel*  
Henry Daniel

Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 20 day of November 1968

Attorney for

*Henry Daniel*  
Petitioner

707 Healey Building  
Atlanta, Georgia 30303  
521-1282

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of )

Barton C. Isbell, Jr., et al., all )  
stockholders of )  
GLENKAREN ASSOCIATES, INC. )  
(TRANSFERORS) )

and )

The partnership, composed of )  
Strauss Broadcasting Company and )  
Jere W. Thompson, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(TRANSFEREE) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM, )  
Atlanta, Georgia )

For Action by the Commission:

REPLY TO OPPOSITION TO MOTION TO STRIKE  
AMENDMENT TO PETITION FOR RECONSIDERATION  
AND FOR A PUBLIC HEARING

Strauss Broadcasting Company of Atlanta, hereinafter  
"Strauss", by its attorneys, hereby replies to the Opposition  
of the "Citizens Committee to Preserve the Present Programming  
of the 'Voice of the Arts in Atlanta': WGKA-AM & FM", (herein-  
after "the Committee"), to the motion of Strauss to strike  
an "Amendment" filed by the Committee to its petition for  
reconsideration of the Commission's grant of consent to the

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Item 21

FILE NO. BTC-5580

BEST COPY  
from the original

assignment of the licenses of WGKA-AM and FM to Strauss.

In support, the following is presented:

1. The Committee attempts to excuse its late filing of the material contained in its so-called "Amendment" on the ground that its counsel had, on October 2, 1968, requested a copy of the Commission's files with respect to the application but had not received it by the time the statutory 30-day period for filing a petition for reconsideration had expired. The petition was filed September 24, 1968. Counsel observes that he had not yet received a copy of the files and that it was only after the filing of the petition for reconsideration that he had an opportunity to consult with the community leaders previously contacted by Strauss. This is indeed a poor excuse. The Strauss amendment which included the summaries of its interviews with the community leaders was filed in May of 1968. It has been in the Commission's public reference room and available to the Committee and its counsel ever since that date. With ordinary diligence the Committee could have examined the public file at any time prior to the expiration of the statutory 30-day period.

2. The Committee's argument with respect to its right to rely upon Section 1.65 as grounds for filing an

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amendment to its petition for reconsideration deserves little comment. The Commission engaged in a rule-making proceeding before adopting Section 1.65. The Report and Order in Docket No. 14867, released November 13, 1964, 3 Pike & Fischer Radio Regulation 2d 1622, which adopted the new rule, makes it crystal clear that the rule was designed to require applicants for broadcast authorizations to keep important and material information in their pending applications current and up-to-date and, by no stretch of the imagination, could have been intended unlawfully to amend Section 405 of the Communications Act or Section 1.106(f) of the Rules so as to extend the 30-day period in which petitions for reconsideration and supplements thereto must be filed.

3. Paragraph 4 of the Committee's Opposition requests that if the Commission disagrees with its argument under Section 1.65, it act favorably upon the Committee's separate pleading requesting leave to file its amendment under Section 1.106(f). It should first be noted that the separate pleading for leave to file was not filed by the Committee until November 20, 1968, some 33 days after the so-called "Amendment" was filed. The separate pleading was not received by counsel for Strauss until November 23, 1968.



Moreover, it alleges no more than contained in paragraphs 1 through 3 of the Committee's Opposition to the motion to strike. The fact that counsel, who apparently was operating under a close time schedule in any event, chose to rely upon a written request to the Commission for a copy of its records rather than to examine them in the Commission's files is certainly not good cause for delay--particularly where the material he ultimately used has been on file and available to the Committee since May of 1968. Due diligence does not seem to be one of the Committee's virtues either in the filing of its "Amendment" or its request for leave to file. The motion to strike should therefore be granted.

4. Paragraphs 5 through 7 of the Opposition simply labor the interpretation to be put upon the statements of the community leaders which are already in this record. Strauss submits that the interviews contained in its May 1968 amendment speak for themselves as do the letters from those leaders attached to Mr. Hayslett's affidavit appearing as Exhibit A to the motion to strike. No useful purpose is served by counsel's efforts to characterize them.

5. Paragraphs 8 through 15 of the Opposition represent an effort by the Committee to pick apart and analyze the statistical validity of the listener survey and other

surveys made by Strauss. The Commission has traditionally not engaged in this sort of detailed analysis for the reason that such surveys are treated as the basis upon which the licensee relied. The fact that a statistically more reliable or a more extensive sampling might have been made is essentially beside the point.

6. The remainder of the Committee's pleading consists of still another effort by the Committee to impugn the good faith of Strauss in connection with its changed program format. There is no question as to what Strauss represented to the Commission. All of such representations were before the Commission when it granted the assignment application. The application proposed a change in format and the full text of the interviews between Strauss and the community leaders were before the Commission when it acted.

7. It is quite true that, since the opposition of the Committee was lodged, Strauss has given serious consideration to retaining the classical format on the FM station for either all or a part of its broadcast hours in order to accommodate the minority of its listeners who favor such a format. It is also true that Strauss has consulted its Washington communications counsel as to the extent to which it might properly or appropriately deviate from the format

proposed in its application. Upon advice of counsel, Strauss has endeavored to program the stations in the manner which it represented in its applications with the exception that it has changed the evening format of the FM station to all classical to accommodate the expressed desires of the minority of listeners who favor this type of programming. The Commission was advised well in advance of this variation from Strauss' prior representations. (See par. 14, p. 14, Strauss' Opposition to Petition for Reconsideration, filed October 9, 1968; par. 8, p.6, Motion to Strike, etc., filed by Strauss on October 31, 1968.)

8. Strauss once more represents that it is endeavoring to present the type of programming which it believes will best serve the interests of the broad public it serves. It has recognized the desires of a minority group of listeners by providing all classical music on its FM station during evening hours. If it determines after further dialogue with the public and with the Committee, and is otherwise satisfied that its obligation to bring a viable and worthwhile AM and FM service to its entire listening audience can be fulfilled by providing additional classical music on WGKA-FM, it will give serious consideration to additional changes in its FM format. When such determinations are made, the Commission will be duly advised.

Wherefore, it is again respectfully requested that the Amendment to the Committee's petition for reconsideration be stricken and that the said petition be denied.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY  
OF ATLANTA

By: Reed Miller  
Reed Miller  
Arnold & Porter  
1229 - 19th Street, N.W.  
Washington, D.C. 20036  
Its Attorneys

Dated: November 25, 1968

CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of November, 1968, sent a copy of the foregoing Reply to Opposition to Motion to Strike Amendment to Petition for Reconsideration and for a Public Hearing by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

Margaret Cureton  
Margaret Cureton

ARNOLD & PORTER

1224 NINETEENTH STREET, N.W.  
WASHINGTON, D.C. 20036

223-3200

November 27, 1968

ITEM 22

THOMAS ARNOLD  
PAUL A. PORTER  
MILTON V. FREEMAN  
NORMAN J. JAMOND  
WILLIAM L. McGUIVERN  
CAROLYN E. ADDER  
LOUIS EISENSTEIN (1915-1966)  
O. DUANE VIETH  
VICTOR H. KRAMER  
REED MILLER  
ADE KRASH  
WILLIAM D. ROGERS  
B. HOWELL HILL  
JULIUS M. GREISMAN  
EDGAR M. BRENNER  
JAMES G. LYONS  
STUART J. LAND  
ROBERT E. HERZSTEIN  
JAMES R. McALEE  
WALTER J. ROCHER  
WERNER KRONSTEIN  
PAUL S. BERL  
JOHN T. RIGBY  
E. WILLIAM HENRY  
JAMES P. FITZPATRICK  
MELVIN C. GARBOW

BRUCE L. MONTGOMERY  
JOHN D. HAWKE, JR.  
MURRAY H. BRING  
PRISCILLA HOLMES  
ARTHUR E. STROUT  
DANIEL A. REZNEC  
JOHN A. EICHLER  
GERALD M. STERN  
RICHARD S. EWING  
MELVIN SPAETH  
RICHARD L. SACON  
HARRY HUGG  
CHARLES R. HALPERN  
DAVID R. KENTOFF  
DAVID H. LLOYD  
MURRAY S. WEBER  
JACK L. LIPSON  
ARMISTEAD W. GILLIAM, JR.  
PETER R. BLEAKLEY  
ALEXANDER E. BENNETT  
JEROME L. CHAPMAN  
MICHAEL SCHNEIDERMAN  
DANIEL R. LEVITT  
ERIC P. CHAMBERS

Mr. Ben F. Waple  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

CABLE ADDRESS  
"ARPCO"

Re: File No. BPCT-5880

Dear Mr. Waple:

This will refer to the pending petition by the "Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WGKA-AM and FM" requesting reconsideration of the Commission's Memorandum Opinion and Order, released September 4, 1968, FCC 68-890, 20172, in File No. BPCT-5880, granting consent to the transfer of control and assignment of the licenses for WGKA and WGKA-FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta.

There are also pending before the Commission various responsive pleadings to the above-mentioned petition for reconsideration and to an "Amendment" thereto filed by the said Committee on October 18, 1968.

Under the provisions of Section 405 of the Communications Act of 1934, as amended, and Section 1.106(j) of the Commission's rules, the Commission is obliged to take action upon the petition for reconsideration within 90 days after the petition was filed, or, by December 23, 1968.

Strauss Broadcasting Company of Atlanta is currently engaged in negotiations with the petitioner, the above-mentioned Citizens Committee, in an effort to settle the differences between the parties in such manner as to provide an overall programming service which Strauss is satisfied will meet the needs of the public in its service area and at the same time permit a viable operation of the two stations. However, because of the shortness of time and the necessity for formal action by the Citizens Committee on any such proposal, it is possible that a plan resolving the differences between the parties cannot be submitted for Commission consideration in time to permit the Commission to act on the pending petition for reconsideration within the 90-day period.

Accordingly, this is to advise the Commission that Strauss Broadcasting Company of Atlanta hereby waives the 90-day period within which the Commission is obliged to act upon the petition for reconsideration and consents to an extension of such period for 45 days after December 23, 1968.

Very truly yours.

Reed Miller  
Arnold & Porter  
1229 - 19th Street, N.W.  
Washington, D.C. 20036  
Counsel for Strauss Broadcasting  
Company of Atlanta

cc: Henry Angel, Esq.  
- Robert S. Strauss, Esq.

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BEST  
from



WOODRUFF, SAVELL, LANE & WILLIAMS

ATTORNEYS AT LAW

707 HEALEY BUILDING

ATLANTA, GEORGIA 30303

December 4, 1968

BRUCE F. WOODRUFF  
EDWARD L. SAVELL  
A. ED. LANE  
JOHN M. WILLIAMS  
LAWSON A. COX  
RONALD L. DAVIS  
HENRY ANGEL

Item 23

BRUCE F. WOODRUFF  
(1897-1965)  
404 521-1282

Mr. Ben P. Waple, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RE: File No. BTC-5560

Dear Mr. Waple:

This will refer to the pending Petition for Reconsideration and for a Public Hearing filed by the "Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WCKA-AM & FM," requesting reconsideration of the Commission's action, released September 4, 1968, granting the application for consent to the transfer of control of the licensee of WCKA-AM & FM, Atlanta, Georgia, to Strauss Broadcasting Company of Atlanta (BTC-5580).

This letter is written for the sole purpose of bringing the Commission up to date on the matters called to the Commission's attention by counsel for Strauss Broadcasting Company in its letter of November 6, 1968. In the November 6th letter to the Commission from Mr. Reed Miller, the Commission was advised of certain "boycott" activities concerning the abovementioned matter and included a copy of the Committee's first newsletter and a copy of an October 31, 1968, letter on Committee stationery to the C & S National Bank. Rather than explain the entire situation, I hereby enclose documentary evidence in chronological order which in and of itself should bring the Commission up to date as to all of the matters surrounding this issue.

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the original bound volume



Mr. J. H. Maple, Secretary  
December 4, 1948  
Page 2

The Committee has not and does not intend to  
institute any form of illegal boycott. It considers  
this matter as irrelevant, moot, and not germane  
to the considerations presently before the Commission.

Very truly yours,

*Henry Angel*  
Henry Angel  
WOODRUFF, SAVELL, LANE & WILLIAMS  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Petitioner

W:ph

cc: William Rosel H. Hyde  
Commissioner Robert T. Bartley  
Commissioner Robert E. Lee  
Commissioner Kenneth A. Cox  
Commissioner James T. Wadsworth  
Commissioner Nicholas Johnson  
Commissioner J. Rex Lee  
Chief, Broadcast Bureau  
Paul Miller, Esq.,  
Counsel for Strauss Broadcasting Company of Atlanta

Enclosure

RECEIVED  
NOV 11 1968  
JAMES E. DOHERTY  
MICHAEL M. HUMPHREYS  
HOWARD R. DAVIS  
FRED NEELY  
ALAN D. FELD  
CARL E. GATES  
EDWARD A. CONLEY  
HAILEY A. ROBERTS  
ROBERT E. PETERSON  
CHARLES E. STEVENS  
T. MCCULLOUGH  
MICHAEL E. LOVINSKY  
WALTER N. KUNZ

AKIN, GUMP, STRAUSS, HAUER & FELD  
ATTORNEYS AT LAW  
2800 REPUBLIC NATIONAL BANK BUILDING  
DALLAS, TEXAS 75201

AMEA CODE 214  
RIVERSIDE 1 61 51

November 6, 1968

Messrs: James E. Doherty  
Michael M. Humphreys  
Howard R. Davis  
Fred Neely

Ms. Carol Warner

cc: Henry Angel, Counsel ✓

I have a copy of the October 31, 1968, letter of your "Broadcast Good Music! Committee", directed to a number of advertisers on WGKA-AM-FM.

Boycotts, threats and attempted intimidation, as contained in your letter, are contrary to the American system of government, business and general conduct. It is, further, a flagrant violation of our property rights.

Accordingly, this is your advice that, unless I have received word from you by the fourteenth day of this month that you are promptly writing each addressee of your letter that such letter is withdrawn, we shall seek such remedies as are appropriate at law.

In the opinion of the writer, and other counsel, actual and punitive damages are recoverable against each of you individually and each and every member of your Committee. For your information, the Law of Georgia is perfectly clear on this point and I want to assure you, without any equivocation, that we will forcefully and aggressively pursue our remedies against each of you and the members of your Committee. Strauss Broadcasting has been extremely patient. Such will not be the case if you fail to avail yourself of this opportunity to partially correct the injury you have done us.

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In closing, may I again assure you that you will hear nothing further from the writer prior to the institution of suit if you do not promptly make a reasonable effort to correct this course of conduct within the time stated.

Very truly yours,

*Robert S. Strauss*  
/Robert S. Strauss

RSS/...

cc: Ted M. ...  
Hale ...  
Robert ...  
Atlanta, Georgia 30303

Reed Miller  
Arnold and Porter  
1229 Fifteenth Street, NW  
Washington, D.C. 20036

Elliott Goldstein  
Powell, Goldstein, Prosser & Murphy  
Eleventh Floor  
Citizens and Southern Nat. Bank Bldg.  
Atlanta, Georgia 30303

November 12, 1968

Robert S. Strauss, Esq.  
2800 Republic National Bank Building  
Dallas, Texas 75201

Dear Mr. Strauss:

I did not receive a copy of your letter to Committee members dated November 8, 1968; however, the Chairman of the Committee presented his copy to me yesterday. I spoke with Elliott Goldstein and he requested that I write you directly.

This is to inform you that without in any way admitting liability or agreeing with your conclusions of law, the Committee has been instructed and advised by me to write to each addressee of the October 31, 1968, letter informing them that said letter is withdrawn. The Committee is writing these letters as quickly as time allows and, upon completion, will thus have complied with the conditions of your covenant not to sue.

Very truly yours,

Henry Angel

HA/ph

cc: Tom Watson Brown  
Hale and Harland  
Fulton Federal Building  
Atlanta, Georgia 30303

Elliott Goldstein  
Powell, Goldstein, Fraser & Murphy  
Eleventh Floor  
Citizens and Southern National Bank Bldg.  
Atlanta, Georgia 30303

Reed Miller  
Arnold and Porter  
1229 Nineteenth Street, NW  
Washington, D.C. 20036

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HENRY D. AKIN  
RICHARD A. GUMP  
ROBERT S. STRAUSS  
JOHN L. HAUER  
ALAN D. FELD  
CARL E. OATES  
FORWARD A. CORLEY JR.  
HALEY A. ROBERTS  
ROBERT L. MEYERS II  
CHARLES L. STEWART  
T. MCCULLOUGH STROTHER  
MICHAEL LOWENBERG  
WALTER H. RUNZ II

AKIN, GUMP, STRAUSS, HAUER & FELD  
ATTORNEYS AT LAW  
2800 REPUBLIC NATIONAL BANK BUILDING  
DALLAS, TEXAS 75201

AREA CODE 214  
RIVERSIDE 1-6251

November 14, 1968

Mr. Henry Angel  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303

Dear Mr. Angel:

I have before me your letter of November 12, 1968, advising that the Committee has been instructed to write each addressee of your letter of October 31, 1968, advising that the letter is withdrawn.

We have had one cancellation already and I must insist that these letters go forward immediately and clearly indicate the good faith of the sender. I am sure you can understand that delay will make any curative steps meaningless.

I want you to know that I sincerely regret the posture of this entire matter and at all times have been willing to do anything reasonable to avoid further friction. The same is true today, but, on the other hand, I am equally determined that if this course of harassment is to be continued that it will be met with extremely aggressive action.

If, in your opinion, anything useful could come out of a meeting, I can assure you that I would cooperate by meeting you either here or in Atlanta. In the meantime, I, indeed, hope we will immediately receive from you, or your Committee, a list of those to whom your letter has been sent, together with a copy of such letter.

Sincerely,

  
Robert S. Strauss

RSS/mp

cc: Tom Watson Brown  
Elliott Goldstein  
Reed Miller

C 199

## Recant or Face Damage Suit, WGKA Warns Boycott Group

Owners of WGKA-Radio station Wednesday threatened legal action unless a threatened secondary boycott, instituted by Broadcast Good Music! Committee, is withdrawn before Friday.

Robert S. Strauss, president of Strauss Broadcasting of Atlanta, and the parent organization, Strauss Broadcasting Inc. of Dallas, Tex., described "boycotts, threats and attempted intimidation" instituted by the committee in protest of the change in WGKA's music format, as a . . . flagrant violation of our property rights."

Strauss, speaking for WGKA, said, "We are fed up. We have kept our mouths shut for a long time, but this whole matter has come to a head."

### BOYCOTT THREAT

He referred to a threatened boycott of WGKA advertisers by members of the Broadcast Good Music! Committee. The committee, which has actively protested the change of a serious music format to that of pop music on WGKA-AM and FM, advised advertisers of WGKA that the committee was seriously considering initiating an economic boycott of those who place paid advertising on radio station WGKA.

"Since your organization presently places paid advertising on

WGKA, it could be a boycott target . . ." A letter circulated by the committee said. The committee enclosed a printed form to be filled out by the advertiser, in which the advertiser signified that he would discontinue placing advertising on WGKA.

Strauss, who is a member of a Dallas law firm, said he had advised heads of the committee by mail that "in the opinion of the writer, and other counsel, actual and punitive damages are recoverable against each of you individually and every member of your committee."

### CORRECT INJURY

"For your information, the Law of Georgia is perfectly clear on this point and I want to assure you, without any equivocation, that we will forcefully and aggressively pursue our

remedies against each of you and the members of your committee. Strauss Broadcasting has been extremely patient. Such will not be the case if you fail to avail yourself of this opportunity to partially correct the injury you have done us," he said.

At the same time, Strauss, who purchased WGKA in September for approximately \$500,000, said that the station would continue to present serious music—concertos, symphonies, operatic music—from 7:30 p.m. to midnight, seven days a week. He said the FM station would present a complete opera every Saturday afternoon.

The AM station will continue to present pop music he said and the FM station would do likewise from morning until 7:30 p.m.

## WGKA Owner Threatens To Sue Over Boycott Move

The president of a Dallas broadcasting company says he will sue unless a group of Atlantans withdraw a boycott threat against WGKA radio and its sponsors.

Robert S. Strauss of Strauss Broadcasting, Inc. said in a letter to the "Broadcast Good Music" Committee that he will sue each member of the committee "individually and jointly" unless the boycott threat is formally withdrawn by the end of this week.

Mr. Strauss, whose firm acquired the Atlanta station and changed its format in October, said the proposed boycott is "illegal and un-American."

The committee, whose members are distressed over the change in the station's format from strictly classical to pop music, had mailed a letter to each WGKA advertiser stating that it "is seriously considering instituting an economic boycott of those who place paid advertising on station WGKA."

THE LETTER promises that sometimes before mid-November the committee will reach a

final decision on whether to boycott. If the decision is affirmative, it states, boycott targets will include any advertisers who have not satisfactorily responded.

Mr. Strauss responded that the proposed boycott is a "flagrant violation of our property rights" and promised to seek damages in court unless the threat is withdrawn.

The Dallas executive said his patience has been exhausted by the resistance to his station's programming by "a small and vocal minority."

The format for WGKA-AM was changed after the move was approved by the Federal Communications Commission in October. WGKA was purchased for \$500,000 by Strauss from Glen Karen Associates.

An outcry was heard from classical music fans when the application for change of ownership and format was made with the federal agency last March.

THIS WEEK, the programming of WGKA-FM was also changed to "middle of the road" music with the exception of the hours 7:30 p.m. to midnight.

Mr. Strauss described the new WGKA music as "very distinctive" and said it has been well received in Dallas and Tucson, Ariz., where sister stations are operated by the firm.

He predicted that the "middle of the road" music—show tunes and pop orchestral music—will be well received in Atlanta "because surveys show that this is what the majority of the listening public wants."

He charged that WGKA never was able to show a profit with a classical format. He added that if there was a need for this kind of music it would be supplied as all needs are met.

Mr. Strauss also said he felt he had been dealt with unfairly by The Atlanta Journal, specifically by columnists commenting on the station change.

HE SAID he feels the newspaper gave him and his firm "a raw deal."

He said he would file suit against the "Good Music" Committee on the basis of Georgia laws against secondary boycotting — encouraging others to boycott. The laws have been used against civil rights and labor groups in the past.

"It's time somebody stuck up for the majority. You can't let people like this run you out of town."

The Strauss president said he doesn't fear a boycott from "the minority." "I just don't tolerate a boycott," he said. He said he is "fed up and offended by what has happened here."



## WGKA Boycott Off

WGKA-Radio Thursday received word from Henry Angel, attorney for the Broadcast Good Music! Committee, informing the station that threats of a secondary boycott against sponsors advertising on the station had been withdrawn.

"This is to inform you," Angel wrote Robert S. Strauss, president of Strauss Broadcasting, "without in any way admitting liability or agreeing with your conclusions of law, the committee has been instructed and advised by me to write to each addressee of the Oct. 31, 1968, letter informing them that said letter is withdrawn. The committee is writing these letters as quickly as time allows and,

upon completion, will thus have complied with the conditions of your covenant not to sue."

Strauss Broadcasting of Atlanta, which recently acquired ownership of WGKA, Tuesday had threatened legal action unless the committee withdrew the threat of a boycott.

At the same time WGKA officials emphasized that several Atlanta who were interviewed relative to the purchase of the station were quoted fairly in letters submitted to the FCC.

The officials said they were unable to contact Dr. Paul West, superintendent of Fulton County schools, who previously had said he was not fairly represented.

WOODRUFF, SAVELL, LANE & WILLIAMS

ATTORNEYS AT LAW

707 HEALEY BUILDING

ATLANTA, GEORGIA 30303

BRUCE F. WOODRUFF  
EDWARD L. SAVELL  
A. ED LANE  
JOHN M. WILLIAMS  
LAWSON A. COX  
RONALD L. DAVIS  
HENRY ANGEL

BRUCE F. WOODRUFF  
(1997-1998)  
404 521-1282

November 15, 1968

Robert S. Strauss, Esq.  
2800 Republic National Bank Building  
Dallas, Texas 75201

Dear Mr. Strauss:

In order to prevent members of the Committee being subjected to needless extensive and harassing litigation on a collateral matter, I advised the Committee officers to withdraw their October 31, 1968 letter, as was indicated in my letter to you dated November 12, 1968. The Committee had not acted improperly, but I felt it was desirable for all of our legal efforts to be exerted towards resolving the main issues presently before the Federal Communications Commission.

The Committee officers, although reluctantly, were willing to go along with my recommendation and had, therefore, prepared a letter of withdrawal in accord with my instructions.

However, before these letters were mailed, a series of regrettable articles appeared in the Atlanta newspapers. It was apparent to the Committee that these articles were instigated by you or someone acting in your behalf since one of the articles quoted from my letter to you of November 12, 1968 and I had given no authority for such publication. These articles also contained statements which were both erroneous and misleading.

The Committee has not acted improperly, particularly in view of the way the new owners of W-GKA initially misled the Atlanta public, the Federal Communications Commission, and are now misleading the Atlanta press. The Committee officers have, therefore, instructed me to inform you that because you have used our good faith intent to comply with your wishes as a publicity device, no withdrawal will be made.

The Committee officers are willing to defend their position in any court of law, or any court of public opinion, and should you file suit, they have instructed me to file a counterclaim for misrepresentation seeking punitive damages and attorney fees as well as actual damages. I have also been instructed to study the

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**WOODRUFF, SAVELL, LANE & WILLIAMS**

**ATTORNEYS AT LAW**

**707 HEALEY BUILDING**

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**BRUCE F. WOODRUFF  
EDWARD L. SAVELL  
A. ED LANE  
JOHN M. WILLIAMS  
LAWSON A. COX  
RONALD L. DAVIS  
HENRY ANGEL**

**BRUCE F. WOODRUFF  
(1987-1988)  
—  
404 521-1282**

**question of whether certain language accusing the Committee of "illegal" and "un-American" conduct constitutes libel.**

**I would also like to point out to you in advance, the letter of October 31, 1968 was sent pursuant to the action of the Committee officers only, and was not authorized or acquiesced in by the membership at large. Therefore, if you carry out your threat to sue the entire membership, you would be subjecting yourself to liability for malicious use of civil process.**

**Sincerely,**

**Henry Angel**

**ED/dwa**

**cc: Tom Watson Brown  
Rife and Harland  
Pulton Federal Building  
Atlanta, Georgia 30303**

**Elliott Goldstein  
Powell, Goldstein, Fraser & Murphy  
Eleventh Floor  
Citizens and Southern National Bank Bldg.  
Atlanta, Georgia 30303**

**Reed Miller  
Arnold and Porter  
1229 Nineteenth Street, NW  
Washington, D.C. 20036**

# Broadcast Good Music! Committee

## Newsletter

ISSUE NO. 2

DECEMBER, 1968

### Ex-WGKA Listeners Set Mass Rally For December 3

Trinity Presbyterian Church, 3003 Howell Mill Road, N.W., will be the site of an 8:00 p.m., December 3 Broadcast Good Music! Committee public meeting for all citizens wishing to join or continue the growing effort to restore serious music programming on WGKA-AM & FM.

The last such BGM!C meeting, November 7 at the Unitarian Universalist Church, drew some 250 concerned citizens--a substantial showing which no doubt would have been even larger had it not also been a symphony performance night. In the interim, however, at least 1,000 more people have given their written endorsement of the Committee's efforts, thereby creating the need for a larger meeting facility such as afforded by Trinity Presbyterian Church.

The meeting will occur exactly 70 days after the BGM!C filed its original petition with the FCC protesting the WGKA programming change (See Statement of Policy reprinted in this issue). By law the FCC can take a full 90 days to grant or deny a petition for a public hearing on the issue. If the hearing is denied the BGM!C is prepared to seek relief through the federal courts to restore WGKA programming to its previous format.

In its amended May 17 application to the FCC Strauss Broadcasting submitted a survey which cites 13 prominent Atlantans as favoring the change from classical to popular music programming on WGKA.

The BGM!C's October 17 amended petition to the FCC consists primarily of affidavits from six of these people, all of which cast doubt upon the accuracy of the survey, the manner in which it was conducted, the content of the interviews, and the candor of the company's representations to the FCC. The six are: Fulton County Schools Superintendent Dr. Paul West, Rabbi Jacob Rothschild, Emory University Board Chairman Henry Bowden, Fulton County Commissioner Walter M. Mitchell, former Atlanta Rotary Club President Frank L. Carter and former Civitan Club President J. Robert Watson.

On October 14 Strauss changed its WGKA-AM programming to what it calls "foreground" music. (In other circles the phrase for it is "Mickey Mouse" music). On November 10 Strauss deleted serious music programming from all but the late evening hours of the WGKA-FM broadcast, day.

Each change prompted thousands more Atlantans to register varying forms of protest. The immediate reaction both times was a deluge of mail, phone calls and in-person visit to the company, many of the businesses placing paid advertising on the station, FCC offices and elected public officials. Further, each Strauss-inspired format change also brought hundreds more redress-seeking Atlantans into active membership in and support of the BGM!C.

The December 3 meeting needs your in-person support. Advertisers, broadcasters and even the FCC will all be watching quite closely what happens at this meeting. Most of the people who buy and sell radio time in Atlanta often allege that the serious music broadcast market here is too trivial. Its size does not merit support of sponsors as a sound and practical advertising investment, they say. Therefore,



as the legend continues, no broadcaster should be compelled to operate a full-time AM-FM outlet for an audience too small to attract sufficient advertising revenue.

BGM!C maintains the opposite is true and is trying to develop sufficient proof to back up its contention. A big turn-out December 3 will be supportive evidence for that contention. Come to the meeting--be heard and counted!

#### STRAUSS PREXY TO ATTEND MEETING

Officers of BGM!C met November 19 in Atlanta with Strauss Broadcasting President Robert Strauss. He has requested this meeting through Committee counsel Henry Angel for the announced purpose of exploring broadcast changes on WGKA acceptable to the interests of his company and that of the BGM!C membership. Though neither side offered nor gave any commitment for a change (BGM!C officers could obviously not have done so without prior authorization by vote of the general membership) a number of proposals and counter-proposals were discussed in general terms.

It was mutually agreed that before any serious negotiations between Strauss Broadcasting and the BGM!C could ensue, it would be necessary to seek and obtain a ruling that such discussions would not adversely effect the BGM!C vs. Strauss litigation now pending before the FCC. At present time no such ruling had yet been made.

On behalf of the membership BGM!C officers invited Mr. Strauss to attend the December 3 mass meeting and he has accepted.

#### The Two 6-cent Stamp Saga

More than once upon a time "free" newsletters have had to fold because their readership failed to support them financially. BGM!C Newsletter is now in its second issue and we're pleased that nearly twice as many people will receive it in the mail as the first issue. We're a little worried, too, because that also means twice the postage expenditure.

A steady stream of \$5, \$10, \$20, etc., donations have kept us operating so far. But it also seems reasonable to assume that all interested readers contribute something even if their means are modest.

Accordingly, we are asking all those who want to continue to receive the newsletter to send us two (2) 6¢ stamps (one stamp will cover the postage for the next newsletter and the other will pay for the newsletter itself). Fair enough?

## Agenda

The Executive Committee respectfully requests that all present refrain from any discussion until the "Open Forum" segment of the agenda is reached. It should be obvious from previous meetings that we always have a very full agenda. Unless we can adhere to the printed format we will be causing a hardship for those who, for various reasons, have to leave at any early hour. Your cooperation in this matter is deeply appreciated.

Music Recital.....7:45-8:00 P.M.  
(At press time no details were available)  
Introductory Remarks.....Austin Catts  
Chairman's Introductory Remarks.....  
Michael Humphreys  
Minutes of Previous Meeting. . . . .  
Carol Warner  
Membership Committee Report . . . . .  
Howard Davis  
Publicity Committee Report . . . . .  
James Doherty  
Finance Committee Report . . . . .  
Fred Neely  
Remarks....Honorable James Mackay  
Committee Counsel Remarks . . . . .  
Henry Angel  
Status Report--Old and New Business...  
Michael Humphreys  
Address by Strauss Broadcasting President.....Robert Strauss  
Open Forum -- Discussion  
Adjournment

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FOR FURTHER 233-5816

INFORMATION: 237-9941

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# Who Belongs To BGM!C?

No organization can be any better than the caliber of the people who comprise its membership. We are understandably proud of our membership because it includes many hundreds of distinguished citizens. Listed below are but a few of them:

Dr. & Mrs. Osler Abbott, Alistair Black, Julia Black, L.M. Carre, Mr. & Mrs. Henry DeGine, Aiele Dieckmann, Eugene Cox Dunwoody, Mr. & Mrs. Frazer Durrett, James M. Hale, Mrs. Robert Hecht, Mr. & Mrs. Alex Hitz, Jean (Mrs. William W.) Lemonis, Dr. Price Lineberger, Hon. James Mackay, Mr. & Mrs. Lion Mason, Col. & Mrs. George Masters, Gladys M. Matheson, Theodore E. Mathews, Dr. & Mrs. John L. McNey, John M. Nedlin, Mrs. Mia E. Morgan; Dr. & Mrs. P. Levering Neely, Mrs. Jacob Rothschild, Mrs. James Scaglione, Donovan Schumacher, Kate Smith, Dr. & Mrs. Peter S. Sotus, Mr. & Mrs. Martin Souser, Mrs. Frank Spiegel, Mr. & Mrs. William Squires, Dr. William H. Stewart, L.H. Swayze, Mr. & Mrs. Lawson Yow, Michael Zearot.

## Keep Your Cool

### But Know The Facts

As reported elsewhere in this issue there appears to be some chance for a happy accommodation between BGM!C and Strauss Broadcasting. In the interests of supporting this objective we hope our members and other concerned with this prospect will show good faith and refrain from any conduct which could be construed as inflammatory while a sincere effort for unhampered negotiation is in progress (See Chairman's Letter in this issue).

At the same time, however, BGM!C officers also feel that certain Atlanta newspaper accounts appearing during the week of November 10 contained statements about the Committee which are contrary to fact and, therefore, need to be set straight.

Specifically, a story appearing November 12 in the Constitution stated that according to the WGKA station manager it was Strauss' Washington attorneys who instructed the change in format of WGKA-FM on November 10 from classical to pop. However, the story neglected to add that the change itself occurred only because it had been applied for by Strauss and was subsequently approved by the FCC.

A second area of public press inaccuracy concerns the question of economic boycott. The inference from news accounts was that a BGM!C boycott against WGKA advertisers had been called off when, in fact, such a boycott had never been authorized or called by the Committee in the first place. It is a matter of record that a copy of an advisory letter sent to about 20 WGKA advertisers was read to the membership at the November 7 meeting. The letter stressed that the Committee was considering a boycott and proceeded to give the reasons why, all of which appeared in print either in this newsletter or the November issue. Those who attended the November 7 meeting know that the membership voted to table consideration of a boycott both as a matter of policy and with respect to its application to specific advertisers. It was further agreed that the entire matter would be given consideration by the membership at a later date after due deliberation.

Yet the screaming headlines November 14 were "Recant or Face Damage Suit, WGKA Warns Boycott Group" (Constitution) and "WGKA Owner Threatens To Sue Over Boycott Move" (Journal). The next day produced the even more incredible "WGKA Boycott Off" headline (Constitution).

The foregoing items are reviewed simply and solely to set the record straight. Given the hope that BGM!C differences with Strauss Broadcasting may yet be resolved cooperatively there is no need here and now to trace the connections which would account for the foregoing headlines and their following stories. Also, there is no immediate need to defend or attack the morality or legality of economic boycott. It is, however, necessary to repeat that no boycott effort was ever

endorsed by this Committee, none was attempted and, therefore, none could be called off.

Finally, it has been repeatedly asserted by many people in and out of broadcasting that under Glenkaren Associates' classical format WGKA was losing money. According to inside information (see "Chestnut" story) WGKA was making a modest profit with classical music for at least several months before it was sold to Strauss.

### Money & Pledges Needed

The Committee has thus far received about \$900.00 in donations and some \$250.00 in pledges from 250 interested individuals. These funds have supported our first and second newsletters. Stamps, stationery, printing, etc. are expensive.

We have not, as yet, been hard pressed for cash and we have met all our financial obligations promptly. However, we cannot predict cash needs for legal fees and possible trips to Washington. For this reason we are asking for either "seed" money or pledges which will be called only if needed.

Even if we have some "happy" news to reveal at the December 3 meeting, the work of the Committee and its need for continuing financial support is hardly concluded. The Committee will have to address itself at this point to creating a climate for the continuing viability of the Atlanta "market" for Good Music Broadcasting. This will certainly take time and money.

It should be pointed out that this is one of the most effective ways to participate and support the activities of the Committee.

### Broadcast Good Music! Committee

#### OFFICERS:

MICHAEL M. HUMPHREYS,  
CHAIRMAN

JAMES E. DOHERTY,  
VICE CHAIRMAN-PUBLICITY

HOWARD R. DAVIS,  
VICE CHAIRMAN-MEMBERSHIP

FRED NEELY,  
VICE CHAIRMAN-FINANCE

CAROL WARNER  
SECRETARY

HENRY ANGEL,  
COUNSEL

### WGKA Monitoring Now Organized

Effective November 7 BGM!C volunteers are keeping a log of commercial advertisements heard on both WGKA-AM & FM. The up-to-date availability of such data will serve a number of useful purposes whatever direction the BGM!C membership may elect to pursue in restoring serious music to the Atlanta airwaves. (If you wish to volunteer for this activity please check the appropriate box on the membership coupon and mail it to us.)

The officers and members of BGM!C owe a sincere and special debt of gratitude to all the volunteer monitors and especially to both Beth Carr and Adele Dieckmann for providing their rather considerable organizational skills. Beth coordinates AM monitoring and Adele FM coverage.

Jill Smith, Beth Scarboro, Marion Perrett, Sarah Savage, Becky Davis (and Beth Carr again) deserve special commendation for long hours of typing, phoning, writing, et.al.

#### CHESTNUT BURIED: OLD WGKA NO MONEY LOSER

This fable keeps cropping up again and again. The truth:

It is apparent that WGKA made a modest to good profit all along.

Information received from an unimpeachable source (a former partner in Glenkaren Associates, the former licensees) bears out the above. Furthermore, the record will show, that in November of 1967, still under previous management, WGKA moved from its Thirteenth Street location to its present Peachtree Center Studios, and in doing so made capital improvements to the tune of \$110,000.00 for new studio equipment, FM Multiplex 100 KW Transmitter and a new antenna structure. It should be obvious that a station "operating in the red" could hardly have managed to make such capital expenditures, or obtain these funds from a lending institution if their financial condition had been as precarious as some folks would have us believe.

Draw your own conclusions! (The November 1967 report listing the above improvements is a public document and can be inspected by any interested party at WGKA's office).





## What You Can Do

People have been asking, "What can I do to help"? Below is a list of things you can do:

I. Write, phone, or visit with those listed in the box below. When writing, please be sure to send a copy of your letter to Strauss Broadcasting Company and also to the Executive Committee.

II. Join one of our sub-committees (See check list). They are: A) Legal Advisory Committee (for lawyers and legal secretaries); B) Membership Committee--Assistance is needed in coordinating our membership files, mailings and correspondence. (The insertion and mailing of the newsletter involves 15-20 people alone.); C) Publicity Committee: 1) Monitors WGKA-FM & AM; 2) Coordinates letter writing; 3) Calls radio stations WRNG and WSB during open line sessions; 4) Helps with editing and layout work of newsletters; 5) Gathers names for petitions (with a goal of ten to fifteen thousand names); D) Finance Committee--Fund Raising and Pledges.

III. Have your Church Club, Social Group, Music Committee, etc., endorse and join the Broadcast Good Music! Committee by resolution. When you have done this, have your secretary certify and mail copies to us.

IV. Send or pledge money. This cannot be emphasized enough.

V. Come to the meeting on December 3.

VI. Impress upon the present and potential advertisers the need to support GOOD MUSIC with their advertising revenue.

### ELECTED OFFICIALS:

Hon. Richard B. Russell; Hon. Herman E. Talmadge; Hon. Fletcher Thompson; Hon. Ben Blackburn; Hon. Phil Landrum; Hon. Ivan Allen

### ADMINISTRATIVE OFFICIALS:

(FCC COMMISSIONERS) Rosel H. Hyde; Robert T. Bartley; Robert E. Lee; Kenneth A. Cox; James J. Wadsworth; Nicholas Johnson

### NEWSPAPERS AND PERIODICALS:

Atlanta Journal; Atlanta Constitution; Northside News; DeKalb New Era; Atlanta Daily World; Atlanta Magazine; Gwinnett Daily News

BE SURE TO MAIL LEGIBLE COPIES OF ALL CORRESPONDENCE TO THE EXECUTIVE COMMITTEE AND TO STRAUSS-WGKA.

# \$\$\$ CAN YOU HELP \$\$\$

### BROADCAST GOOD MUSIC! COMMITTEE

(The Citizens' Committee to restore full-time serious music programming on WGKA-AM & FM)

I, the undersigned, hereby reaffirm my membership in this Committee and endorse its statement of policy.

PLEASE PRINT!

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Mail to: BROADCAST GOOD MUSIC! COMMITTEE  
P.O. Box 7345 Atlanta, Georgia 30309

( ) Enclosed is my check for \$\_\_\_\_\_ to help defray the Committee's growing need for "seed" money.

( ) I hereby pledge \$\_\_\_\_\_ expressly for possible legal fees and expenses which the Committee may require later. I understand this pledge will not be called unless and until it is actually needed for such purpose.

Contact me to serve on the sub-committee(s) checked below:

- ☐ legal advisory  
☐ membership  
☐ publicity  
☐ finance ☐ monitoring

# Statement Of Policy

## The Citizens' Committee to Restore Full-time Serious Music on WGKA-AM & PM: A Statement of Policy:

This committee, which we will refer to for brevity's sake as the BROADCAST-GOOD MUSIC! COMMITTEE or, simply, the Committee, wishes to make clear its objectives.

### WHAT IS THE BROADCAST-GOOD MUSIC! COMMITTEE?

The Committee is a semi-formal organization of residents of the Atlanta area who have joined together to preserve the broadcasting of classical and semi-classical music by the community's only full-time source of such music, WGKA-AM & FM. To accomplish this the Committee intends to use all available legal means necessary.

### WHAT ACTION HAS THE COMMITTEE UNDERTAKEN THUS FAR?

On September 26, 1968 the Committee filed with the FCC a formal petition requesting reconsideration of the FCC's docket decision of August 29, 1968 which approved the sale of WGKA and the change of the station's broadcasting format from classical to "foreground" music. The petition, which in no way challenges the sale of the station, alleges that any change in broadcasting format is not in the public interest and requests the FCC to hold a public hearing in Atlanta to determine what is, in fact, the interest of WGKA's listening public and to grant a "stay of effectiveness" of the August 29th action until such time as this question may be finally resolved through a hearing or, if necessary, in the courts.

### WHAT WILL BE THE COMMITTEE'S NEXT MOVE?

This depends upon the FCC's response to the Committee's formal petition. The Committee's legal sub-committee is now conducting research, preparing evidence and collecting testimony which may be used either for public hearing or, if that is not granted, for a judicial proceeding.

### WHO ARE MEMBERS OF THE COMMITTEE?

The Committee is made up of the 2,181 individuals who wrote letters of protest or signed petitions protest prior to the filing of the Committee's September 26th petition, as well as the many who have since pledged support of the Committee's objectives. The thousands of citizens who, though equally opposed to the proposed change in WGKA's broadcasting format, have not yet indicated that they share the Committee's concern would bring them into actual membership.

### WHO MAY JOIN THE COMMITTEE?

The Committee welcomes to its membership all citizens who believe (1) that WGKA's present programming not only offers opportunity for enjoyment but fills an educational and cultural need in this community, and (2) that, as supposed protector of the interest of the general public, the FCC cannot be permitted to have its action of August 29 go unchallenged, particularly since the public outrage aroused by the action has been of such magnitude.

### WHAT DOES IT COST TO JOIN THE COMMITTEE?

There are no dues, but voluntary contributions of money to pay for operating expenses (such as postage, printing, and possible legal costs) are earnestly solicited, as well as contributions of time and special skills (such as typing, telephoning, research, news copy preparation).

### DOES THE COMMITTEE HAVE A FORMAL ORGANIZATIONAL STRUCTURE?

Only insofar as is necessary for the conduct of business. At its initial meeting the approximately 60 members in attendance elected an executive committee consisting of a chairman, a secretary, and three vice-chairmen in charge of finance, membership, and publicity. A legal sub-committee has subsequently been formed, and anyone who wishes to assist the work of this sub-committee is encouraged to do so.

### WILL THE COMMITTEE HOLD REGULAR MEETINGS?

No. Meetings will be called only as developments warrant. Funds permitting, all members will be advised by mail of subsequent general membership meetings and of intermediate progress toward our goal.

### WHAT POSITION DOES THE COMMITTEE TAKE ON THE OWNERSHIP OF WGKA?

It is basically immaterial to the Committee who owns and operates WGKA. The Committee accepts the concept of private enterprise that anyone should have the right to buy or sell property—including broadcasting companies. The Committee contends only that because the airwaves are public property the public is entitled to a voice concerning what is broadcast over those airwaves, and that this public voice has been denied a fair hearing. Our objective is that it be given this hearing.

### WHY DOES THE COMMITTEE FEEL OPTIMISTIC ABOUT ITS CHANCES FOR SUCCESS?

In a parallel case decided by a three-judge panel a U.S. Circuit Court has substantially decided that (1) such a citizens' committee has legal standing and (2) the public interest is entitled to a hearing.

This statement has been endorsed by vote at the Committee's October 4, 1968 general membership meeting.

## Ask Radio Advertisers To Support Serious Music

TTC.N 24

December 4, 1968

Mr. Ben F. Waple, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RE: File No. BTC-5580

Dear Mr. Waple:

I am in receipt of a letter to you from Reed Miller advising the Commission that Strauss Broadcasting Company of Atlanta waived the 90 day period within which the Commission is obliged to act upon the Petition for Reconsideration and consenting to an extension of an additional 45 days. Petitioner and Strauss Broadcasting Company are, indeed, involved in constructive negotiations in an attempt to explore the possibilities of a compatible agreement since the concept of public interest and a profit-making motive are not necessarily mutually exclusive positions. As yet no concrete mutual agreement has been reached.

At a duly called meeting of the Committee on the evening of December 3, 1968, by a unanimous vote the Committee decided not to consent to the abovementioned 45 day extension since it is anxious to restore full-time classical music to Atlanta at the earliest possible date. The Committee felt that the negotiations can continue satisfactorily within the existing statutory time sequence without jeopardizing the purpose of the negotiations or the legal positions of either party.

Very truly yours,

Henry Angel  
WOODRUFF, SAVELL LANE & WILLIAMS  
707 Healey Building  
Atlanta, Georgia  
Counsel for the Petitioner

HA/pb

cc: Reed Miller, Esq.

T-10M-5

December 5, 1968

Mr. Ben F. Waple, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RE: File No. BTC-5580

Dear Mr. Waple:

Enclosed please find a Request for Leave to Amend, and a Second Amendment to the Committee's original Petition. I am embarrassed by the filing of this amendment at this late date, particularly in lieu of my letter to you dated December 4, 1968, informing you that the Committee would not consent to a 45 day extension of time.

I fully understand that by filing this Request and the enclosed Amendment, that under the applicable rules, Strauss Broadcasting Company has 10 days within which to file an Opposition and the Committee has 5 additional days within which to file a Reply. I am further aware that this additional 15 days of possible pleading will end on a date practically identical to the end of the 90 day period. It would therefore cause a burden upon the FCC which I neither intended nor contemplated, and for which I must extend my apologies.

The matters discussed in the enclosed Amendment, however, are of considerable importance, and feeling that the FCC should be advised of these matters, and recognizing a duty on the part of the Committee to continue to inform the Commission of matters relevant to its decision, I felt the matter required submission and, no doubt, should equally require responsive pleadings.

Mr. Ben F. Waple, Secretary  
December 5, 1968  
Page 2

For the abovementioned reasons, I, acting in behalf of the Committee, hereby waive the 90 day period within which the Commission is obliged to act upon the Petition for Reconsideration and consent to an extension of such period for 15 days after December 23, 1968.

Very truly yours,

Henry Angel

HA/pb

Enclosure

cc: Reed Miller, Esq.  
Arnold & Porter  
1229 19th Street, N.W.  
Washington, D.C. 20036



Item 25

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE )	
TO PRESERVE THE PRESENT PROGRAMMING )	FILE NO. BTC-5580
OF THE "VOICE OF THE ARTS IN ATLANTA": WJKA - AM & FM for Reconsideration of the FEDERAL COMMUNICATIONS COMMISSION'S Decision Approving the Sale of WJKA Radio and the Change of its format from Classical to Popular Music, and For a Public Hearing to Determine WHAT IS IN FACT THE INTEREST OF THE LISTENING PUBLIC. )	
	<u>REQUEST FOR LEAVE TO</u> <u>FILE A SECOND AMENDMENT</u> <u>TO THE COMMITTEE'S PETITION FOR RECONSIDERATION AND FOR A PUBLIC HEARING</u>

REQUEST FOR LEAVE TO AMEND

Petitioner respectfully requests the Commission to grant the Committee leave to file a second Amendment to its original Petition for Reconsideration and Request for a Public Hearing, hereinafter referred to as Second Amendment.

On December 3, 1968, Petitioner was informed for the first time of the facts which are set forth in the body of its Second Amendment which involve matters that occurred during the month of November and which were thus impossible to discover or report to the Commission within the 30 day period required by 5405 of the Act and 51.106 of the Rules. The matters contained in the Second Amendment are of grave importance, constitute newly discovered evidence, and are now being



reported to the Commission by the Committee at the earliest possible time.

WHEREFORE, Petitioner prays that this Request for Leave to File a Second Amendment be granted.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

BY

Henry Angel

Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Attorney for

707 Healey Building  
Atlanta, Georgia 30303  
521-1282

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

[illegible]

SECRET DOCUMENT TO  
BE USED FOR INFORMATION  
OF PERSONS FOR A  
LIMITED PURPOSE

VEN. WEST

a number referring to hereby amended to add a Part V.

## Fig. 2. V

THE PRESENTATION OF SUCH A BROAD VIEW  
OF THE CONCEPT OF A PROGRAM  
OF THE PURPOSE OF GROUPING ADVERTISING TO "

In Exhibits "A" through "I" attached to the First and Amendment, an actual calculated misrepresentation is fully documented and demonstrated how it was obtained. Strauss Broadcasting Company attempted to obtain advertising on WQVA-TV. Such documentation needs little amplification in the way of this Amendment. However,

Petitioner would like to point out that in Strauss Broadcasting Company's Motion to Strike filed with the Commission on October 31, 1968, on page 6 thereof, it is stated that, "on November 10, 1968, the program format on WGKA-FM will be changed so as to broadcast from sign-on to 8:00 P.M. a combination of popular favorites, Broadway show tunes, hits from Hollywood, and standard favorites." In Exhibit "A" attached to this same Motion to Strike, appears the affidavit of Mr. Dan Hayslett, executive Vice President of Strauss Broadcasting Company. This affidavit was prepared and signed on October 25, 1968. On the final page of Mr. Hayslett's affidavit, Mr. Hayslett informed the Commission that the WGKA-FM format will change on November 10, 1968, as described above.

For the above stated reasons no later than October 25, 1968, Strauss Broadcasting Company of Atlanta had at least corporate knowledge of the actual date the FM format would change. Furthermore, its original application to the Federal Communications Commission which was subsequently granted provided for such a program change.

The representations, either affirmative or by implication, made to Mr. L.M. Carré by an individual acting in behalf of Strauss Broadcasting Company on either November 7 or November 8, 1968, just 3 days before the actual program change, and as spelled out in detail in Mr. Carré's affidavit, constituted clear and unequivocal corporate misrepresentation.

WHEREFORE, Petitioner requests that the relief it has continually sought in front of the Federal Communications Commission be granted, and a Public Hearing be conducted.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

BY Henry Angel  
Henry Angel  
Attorney for Petitioner

707 Healey Building  
Atlanta, Georgia 30303  
521-1282

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

PETITION OF THE CITIZENS COMMITTEE	)	
TO PRESERVE THE PRESENT PROGRAMMING	)	FILE NO. BTC-5580
OF THE "VOICE OF THE ARTS IN ATLANTA": WGKA -AM & FM for Reconsideration of the FEDERAL COMMUNICATIONS COMMISSION'S Decision Approving the Sale of WGKA Radio and the Change of its format from Classical to Popular Music, and For a Public Hearing to Determine WHAT IS IN FACT THE INTEREST OF THE LISTENING PUBLIC.	)	
	)	AFFIDAVIT
	)	of L.M. Carré

Mr. L.M. Carré, being duly sworn, deposes and says:

1.

That he is the owner of the Oriental Bazaar which has its place of business at 262 East Paces Ferry Road, N.E., Atlanta, Georgia.

2.

That since 1964 he has advertised on radio station WGKA and WGKA - FM and has been a regular listener since WGKA was originally formed.

3.

That advertising on a full-time classical radio station was personally gratifying and economically beneficial.

4.

That he was so pleased with the station and the results of his advertising on the station, he agreed in July of 1965 to write a letter to the then owners of WGKA, expressing his full support of full-time classical music broadcasting and his satisfaction with the economic results of his advertising on this station.

5.

That he wrote his letter of July 2, 1965, with the understanding with the then owners of WGKA that said letter would be used by the station in attempts to solicit advertising from other non-competitive sources in the community since he was interested in the financial support of a full-time classical music station.

6.

That his 1967, 1968 advertising contract with WGKA was due to expire on April 25, 1968.

7.

That on April 16, 1968, he renewed his advertising contract through Glenkaren Associates, Inc. for another year.

8.

That on May 16, 1968, after learning of the proposed sale of the station and the possible program format change, he wrote the president of Strauss Broadcasting Company notifying him that if any change was made in the programming of the stations away from classical music, he would assert his right to cancel or alter his advertising contract without penalty, as well as the right to rescind his letter of July 2, 1965, and he requested a reply.

9.

That Strauss Broadcasting Company never replied to his May 16, 1968, letter.

10.

That on June 27, 1968, he wrote a letter to the Federal Communications Commission advising them of his dissatisfaction with the proposed program change and of the fact that he was never advised of the change by Strauss Broadcasting Company.

11.

That on October 24, 1968, he notified Strauss Broadcasting Company that he wished to cancel his advertising contract as it applied to WGKA -AM because of the AM programming change

away from the FM station.

12.

That on October 24, 1968, he agreed to withdraw his FM station cancellation until he was personally contacted by a Strauss Broadcasting Company representative to discuss the matter.

13.

That since he had not been contacted by Strauss Broadcasting Company, he wrote a letter dated November 6, 1968, to WTKR, notifying them of his cancellation of all further advertising on the FM station.

14.

That in the letter to WTKR of November 6, 1968, he stated:

"Furthermore, this letter will also serve as a reminder that if there is a change in programming any more than has already taken place away from classical music on the FM station, I will be forced to cancel this portion of my contract also."

15.

That on either November 7, 1968, or November 8, 1968, a Mr. Jim Miller, advertising representative of Strauss Broadcasting Company, came to deponent's store in order to solicit additional FM advertising.

16.

That to the meeting mentioned in Paragraph 15, Jim Miller brought record jackets of the type music Strauss Broadcasting Company proposed to program on the FM station.

17.

That deponent recalls that all of the jackets were of classical music records of the highest quality.

18.

That due to said meeting, deponent was under the impression that by extending the amount of his FM advertising,



on WGKA - FM, he would be financially contributing to a full-time FM classical music radio station.

19.

That for that reason and that reason alone, deponent agreed to extend his FM advertising.

20.

That on November 10, 1968, when deponent turned on his FM radio, he was shocked to discover that WGKA - FM had changed its daytime format to popular music, and promptly he telephoned Jim Miller verbally to cancel the entire contract.

21.

That on November 11, 1968, he wrote WGKA a letter confirming said cancellation, rescinded WGKA's right to use his letter of July 2, 1965, and demanded its return as well as the destruction of all copies thereof.

22.

That up to and including the date of this affidavit, his letter of July 2, 1965, has not been returned.

23.

That after the abovementioned transactions transpired, it came to deponent's attention that Strauss Broadcasting Company had reached a decision to change its FM programming away from full-time classical music as early as October 25, 1968, two weeks prior to Mr. Miller's visit.

24.

That due to this prior determination of Strauss Broadcasting Company, deponent feels that he was induced to ex-

pend advertising monies by means of intentional and known misrepresentations by Strauss Broadcasting Company or an agent acting in its behalf.

J. M. Carré  
L.M. Carré

Sworn to and subscribed before  
me this 11 day of November,  
1968.

Judith H. Wang  
Notary Public

Notary Public, Georgia State at Large  
My Commission Expires March 2, 1971

July 2, 1965

L. S. Ford, Jr.  
P. O. Box 1  
1110 Commerce Street, N. Y.  
Mexico, D. C. 20001  
Dear Mr. Ford:

As a regular listener of W. G. W. A. from its inception date, I  
naturally thought of your station when I considered advertising  
the Oriental Loggia on radio. Now after completion of the first year  
of regular announcements, I would like to say again that the results  
of your advertising have been very gratifying. Your station is reaching  
the ranks of cultural and financial levels that are interested in the  
type of merchandise handled here, and furthermore, it is bringing them  
into the station.

With best wishes for the continued success of W. G. W. A., I am

Yours very truly,

L. S. Ford  
Oriental Loggia

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Exhibit "B"

BEST COPY  
from the original



1140 PEACHTREE STREET, N. E.  
ATLANTA 9, GEORGIA  
873-2848

201-11111111 1910  
ATLANTA, GA. 31203  
521-1111

### STATION FACILITIES ADVERTISER AGREEMENT

Agreement between Oriental Bazaar, called "advertiser"  
and WGKA to broadcast three 60-second announcements per week (according  
to schedule below) commencing 25 April, 1968 and ending 24 April, 1969  
(schedule to run on alternate weeks)

#### RATES:

Station time \$ 15.00  
Talent - - \$ \_\_\_\_\_  
Production \$ \_\_\_\_\_  
Total - - \$ \_\_\_\_\_ per broadcast for a total of  
\$ 37.00 ~~XXXXXXXXXX~~ Per Week

In return for said service the advertiser agrees that pay-  
ments are to be made to the station as follows:

monthly as billed

This agreement may be terminated by either party by  
giving the other two weeks' written notice.

#### TO BE SUBMITTED FOR APPROVAL

By \_\_\_\_\_  
Station Representative

Accepted by \_\_\_\_\_

#### SCHEDULE (Alternate weeks)

No.	Day	Time
<u>1</u>	Mon.	<u>7:20 AM</u>
<u>1</u>	Tue.	<u>4:20 PM</u>
<u>1</u>	Wed.	<u>8:15 AM</u>
<u>1</u>	Thu.	
<u>1</u>	Fri.	
<u>1</u>	Sat.	
<u>1</u>	Sun.	

Date April 16, 1968  
Advertiser Oriental Bazaar  
By Jim Gami  
Officer  
Address 202 E. Paces Ferry Rd.  
City Atlanta State Ga.  
Telephone 257-5125

CLIENT Oriental Bazaar  
START 25 April 1968  
STOP 24 April 1969  
RATE \$15.00

This agreement subject to standard conditions of



225

Exhibit "c"

1600 KC

FM 92.9 MC

FOR THOSE WHO CARE WHAT THEY HEAR

AVAILABLE  
bound volume

Atlanta, Ga. 31305

July 1, 1965

R. Wend Strauss

Executive Director, Kennesaw

1401 S. Mari

Atlanta, Texas

Dear Mr. Strauss:

I am an advertiser of four years standing with K. I. I. A.,  
is with considerable dismay that I have learned of the intent of the  
station, with a possible shift in programming away from classical  
music. Since this station is a specialty one appealing primarily to the  
type of people who are interested in cultural things, any change in  
the format of the station will certainly alter my thinking concerning  
using the station's advertising facilities.

I would like to serve notice that if there is any change away  
from classical music or major change in the format of the station (s),  
I will expect the right to alter or cancel my contract without penalty  
of short notice cancellation. If this condition does not meet with your  
approval, please advise immediately.

Furthermore, with any change in the programming, I will also  
reserve the right to rescind my letter of recommendation of the station  
written on July 2, 1965 after the completion of one full year's  
advertising.

Your acknowledgment of this letter will be appreciated.

Yours very truly,

E. J. Carr

E. J. Carr

Atlanta, Georgia

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Exhibit D

BEST COPY

from the original

Atlanta, Ga. 7375

June 27, 1935

Special Investigation Commission

Atlanta

Dear Sir:

Reference

is made to letter to radio station W. T. . . . .  
which was received by your office for more than one week,  
and which was not acted upon for several months. It is  
noted that you have not taken any action in Atlanta with regard  
to the matter. I am sorry that I am not able to take any action.

I am sorry that I am not able to take any action,  
the letter was not received, and I am sorry that I am not able  
to take any action, and I am sorry that I am not able  
to take any action, since I am not able to take any action.

I am sorry that I am not able to take any action, since I am  
not able to take any action, and I am sorry that I am not able  
to take any action, since I am not able to take any action.

I am sorry that I am not able to take any action, since I am  
not able to take any action, and I am sorry that I am not able  
to take any action, since I am not able to take any action.  
In this letter, I asked that he acknowledge my letter, and I have  
received no reply.

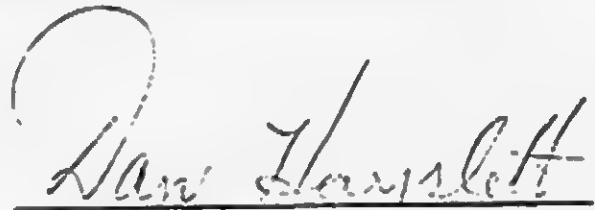
Yours very truly,

L. M. Carré

Oriental Paper

Exhibit "E"

FM programming to popular music". This is to inform the Commission that, on November 10, 1968 the program format of WGKA-FM will be changed so as to broadcast from sign-on to 8:00pm a combination of popular favorites, Broadway show tunes, hits from Hollywood and standard favorites. Commencing at 8:00pm until 11:00pm or 11:30pm depending on the length of the works, WGKA-FM will be programmed with pure classical music six days a week. On Sunday nights starting at 8:00pm WGKA-FM will broadcast a complete opera. Strauss believes this format to be consistent with its prior representations to the Commission which, at the same time, endeavoring to satisfy the needs of a minority of its listeners who have expressed a desire for classical music.

  
Dan Hayslett

Subscribed and sworn to before me  
this 25 day of October, 1968.

  
Notary Public

My commission expires: Dec 1 1969

(Notary's Seal)



Atlanta, Ga. 30305  
November 6, 1968

L. G. H. A.  
1710 Peachtree Center Building,  
Atlanta, Ga. 30303

Gentlemen:

On or about October 21, I notified your account representative, Mr. Jim Miller, that I wanted to cancel my advertising contract with you because of the drastic change that had been made in the A<sup>+</sup> broadcasts and the changes being made somewhat more gradually in the Fm broadcasts. At his insistence, I agreed to withhold writing a letter of cancellation until he could contact me in person.

To date, he has not called on me, and you may accept this letter as notice of cancellation, effective immediately, of all Oriental Lazaar advertisements on A<sup>+</sup>. In accordance with my letter of May 15, 1968 addressed to Mr. Strauss in Dallas, I will not accept any billing for a short rate cancellation of this advertising. I was not advised at the time I renewed my contract of any contemplated change of ownership or programming. The present programming on the A<sup>+</sup> broadcasts simply has no appeal for the type of people I am trying to reach.

Furthermore, this letter will also serve as a reminder that if there is a change in programming any more than has already taken place away from classical music on the Fm station, I will be forced to cancel this portion of my contract also.

Before I close this letter, I have one more complaint. On approximately October 8, I called the station to ask that some new copy be substituted for the ad which has now been running for some time. The girl who answered the telephone advised me that she also did the copy and said she would call me back in a day or two. That is the last I have heard about that.

Yours very truly,

Exhibit G

Atlanta, Ga. 30303  
November 11, 1965

F. F. F. F.  
1910 Peachtree Center Building,  
Atlanta, Ga. 30333

Gentlemen:

Referring to our letters of May 14, June 27, and November 6 and confirming our telephone conversation of November 10 with Mr. J. H. Miller, this will serve as notice of immediate cancellation of all advertising by the Atlanta Journal. Our complete change in format of both the 5 and 7 stations leaves Atlanta as a musical void and is a move which will be widely resented. It is inconceivable to me that you can take F. F. F. F. sound just like any other F stations in this area without alienating many listeners and advertisers.

This letter will also rescind your right to use my letter of commendation dated July 2, 1965 and addressed to Mr. J. C. Jordan, Jr. Please <sup>return</sup> my original letter to me and destroy any copies of it that may have been made.

Yours very truly,

L. S. Ford  
Atlanta Journal

cc: F. F. F.

cc: Broadcast Good Music Committee

227 Leveeview Avenue, N. E.  
Atlanta, Ga. 30305  
November 14, 1958

Editors, Atlanta Braves, Inc.  
Atlanta, Georgia

The change in ownership of Stations W. J. L. A. A. and W. J. L. A. is an insult to the musical appreciation and tastes of a large segment of Atlanta and vicinity; the contention of Strauss Broadcasting Company that they did not know what was in their application to F. C. C. and have just recently been advised by their Washington attorneys that they would have to convert the W. J. L. A. to "107" is an insult to the intelligence of the entire region.

Yours very truly,

L. J. Ford

cc: F. C. C.

P. S. to Constitution and Journal only: If you wish to confirm my having written this letter, you may reach me at the Oriental Inn, 237-5125.

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Exhibit "I"

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of )

Barton C. Isbell, Jr., et al., all )  
stockholders of )  
GLENKAREN ASSOCIATES, INC. )  
(Transferors) )

and )

The partnership, composed of )  
Strauss Broadcasting Company and )  
Jere W. Thompson, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(Transferee) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM, )  
Atlanta, Georgia )

For Action by the Commission: )

FILE NO. BTC-5580

MOTION TO STRIKE "SECOND AMENDMENT TO PETITION  
FOR RECONSIDERATION AND FOR A PUBLIC HEARING"

Strauss Broadcasting Company of Atlanta, (hereinafter  
"Strauss"), by its attorneys, moves to strike the Committee's  
"Second Amendment to Petition for Reconsideration and for a  
Public Hearing", dated December 6, 1968. In support, the  
following is represented:

The "Second Amendment" presents no more than a  
private contract dispute between an advertiser and WGKA-FM.  
Strauss does not concede the validity of the position taken

by the advertiser. However, regardless of the merits of those contentions, they present nothing for the Commission to rule upon. The Commission has historically and rightly refused to assert jurisdiction, if indeed it could, in matters of local contract law between licensees and third parties.

Wherefore, the Committee's "Second Amendment" should be stricken.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY OF ATLANTA

By: \_\_\_\_\_

*Reed Miller*  
Reed Miller  
Arnold & Porter  
1229 - 19th Street, N.W.  
Washington, D.C. 20554  
Its Attorneys

Dated: December 10, 1968

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of December, 1968, sent a copy of the foregoing Motion to Strike "Second Amendment to Petition for Reconsideration and for a Public Hearing" by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

  
Margaret Cureton

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of )

Barton C. Isbell, Jr., et al., all )  
stockholders of )  
GLENKAREN ASSOCIATES, INC. )  
(Transferors) )

and )

The partnership, composed of )  
Strauss Broadcasting Company and )  
Jere W. Thompson, d/b/a )  
STRAUSS BROADCASTING COMPANY OF ATLANTA )  
(Transferee) )

For Transfer of Control of 100% of the )  
Stock of Glenkaren Associates, Inc. )

Licensee of Stations WGKA and WGKA-FM, )  
Atlanta, Georgia )

For Action by the Commission:

OPPOSITION TO REQUEST FOR LEAVE TO FILE  
A SECOND AMENDMENT TO THE COMMITTEE'S  
PETITION FOR RECONSIDERATION AND  
FOR A PUBLIC HEARING

Strauss Broadcasting Company of Atlanta, (hereinafter  
"Strauss"), by its attorneys, hereby opposes the "Request for  
Leave to File a Second Amendment to the Committee's Petition for  
Reconsideration and for a Public Hearing," dated December 6,  
1968. In support, the following is stated:

1. The time for filing a petition for reconsideration  
in this matter expired October 4, 1968. The Committee filed  
its petition for reconsideration within the 30-day period

ITEM 27

FILE NO. ETC-5580



permitted by the Communications Act and the Commission's rules. The 90-day period permitted for Commission action will expire December 24, 1968.

2. This is the second so-called "Amendment" to the Committee's petition. The latest one was filed more than 60 days after the time permitted by the statute had expired. A strong showing of good cause for this late filing should be required. An examination of the "newly discovered evidence" upon which the "Second Amendment" is based indicates that it concerns matters over which the Commission has no direct jurisdiction and which, if true (which Strauss does not concede), at best may give rise to local contract litigation rather than Commission consideration. No good cause for late filing is present.

Wherefore, the Committee's request for leave to file its "Second Amendment" should be denied.

Respectfully submitted,

STRAUSS BROADCASTING COMPANY OF ATLANTA

By: *[Signature]*  
Reed Miller  
Arnold & Porter  
1229 - 19th Street, N.W.  
Washington, D.C. 20036  
Its Attorneys

Dated: December 10, 1968

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of December, 1968, sent a copy of the foregoing Opposition to Request for Leave to File a Second Amendment to the Committee's Petition for Reconsideration and for a Public Hearing by U.S. mail, postage prepaid, to the following:

Chief, Broadcast Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Henry Angel, Esq.  
Woodruff, Savell, Lane & Williams  
707 Healey Building  
Atlanta, Georgia 30303  
Counsel for the Committee

Margaret Cureton  
Margaret Cureton

Item 29

January 9, 1969

Mr. Ira F. Waple, Secretary  
Federal Communications Commission  
Washington, D. C. 20554

Re. Petition for Reconsideration and for a Public  
Hearing filed by the "Citizen's Committee to  
Preserve the Present Programming of the 'Voice  
of the Arts in Atlanta' WCKA-AM and FM"  
(WTC-5589) filed September 25, 1968

Dear Mr. Waple:

I write this letter in hopes that you can help us resolve an  
embarrassing situation.

Under the provisions of Section 405 of the Communications Act  
of 1934, as amended, and Section 1.106 (j) of the Commission's  
Rules, the Commission is obliged to take action upon the peti-  
tion for reconsideration within ninety days after the petition  
was filed, or by December 23, 1968.

On December 5, 1968, I, as attorney for the Citizen's Committee,  
waived the ninety day period and consented to a fifteen day  
extension thereto, since I filed a subsequent pleading which  
would have otherwise placed a time burden on the Commission,  
which extended the period until January 7, 1969.

Relying upon the law, I informed the Citizen's Committee that  
they could expect a decision by January 8, 1969. Due to the  
above, the Citizen's Committee, as a result of my advice, spent  
hundreds of dollars for the printing and mailing of thousands  
of newsletters to its members calling a meeting for the evening  
of January 14, 1969 and informing them that at that time, a  
decision will have been reached. The purpose of the meeting  
is to inform the membership of the results, decide what steps

January 9, 1969

are to be taken in future proceedings, whether it is a public hearing or an appeal.

I understand that a decision was not rendered on January 8, 1969.

In view of the embarrassing situation I find myself in, I respectfully request that you inform me whether or not the Committee can expect a decision prior to their meeting on Tuesday, January 14, 1969.

Very truly yours,

Henry Angel  
Counsel for Petitioner

SA/ab

cc: Chairman Noel E. Hyde  
Commissioner Robert T. Bartley  
Commissioner Robert S. Lee  
Commissioner Kenneth A. Cox  
Commissioner James J. Madwerth  
Commissioner Nicholas Johnson  
Commissioner H. Ben Lee  
Chief, Broadcast Bureau  
Mr. Reed Miller, Esq.  
Counsel for Strauss Broadcasting Company of Atlanta

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

JAN 14 1969

Item 30

AIR MAIL

IN REPLY REFER TO:

8430

1 118

Mr. Henry Angel  
Woodruff, Savell, Lane & Williams  
Attorneys at Law  
707 Healey Building  
Atlanta, Georgia 30303

Dear Mr. Angel:

This refers to your letter of January 9, 1969, regarding your Petition for Reconsideration of the Commission's Action in Station WGKA, Atlanta, Georgia. You first state that:

"Under the provisions of Section 405 of the Communications Act of 1934, as amended ..., the Commission is obliged to take action upon the petition for reconsideration within ninety days after the petition was filed, or by December 23, 1968."

You then ask whether you can expect a decision from the Commission by January 14, 1969.

According to the undisputed facts, you filed a "Petition for Reconsideration" on September 25, 1968 and thereafter on October 21, 1968 and on December 9, 1968, you tendered amendments to the Petition for Reconsideration.

While there is a ninety days provision in Section 405 of the Communications Act, there is also a provision that petitions for reconsideration must be filed "within thirty days from the date upon which public notice is given of the order, decision, . . . complained of." In view of these provisions, a ninety day period for Commission action on petitions for reconsideration and a thirty day period in which to file such petitions by a petitioner, it would be inequitable on the one hand to insist on the ninety day provision for Commission action and on the other hand to tender amendments to a petition for reconsideration considerably after the thirty day period.

This matter is receiving staff attention and as soon as possible, under the circumstances, the Commission will act.

We hope this answers your questions.

Sincerely yours,



Robert J. Rawson  
Chief, Renewal and Transfer Division  
Broadcast Bureau

cc:

Reed Miller, Esq.

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Item 31

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

March 4, 1969

IN REPLY REFER TO:

Strauss Broadcasting Company of Atlanta  
1401 South Akard Street  
Dallas, Texas 75215

8430

Gentlemen:

As you know, there is now pending before the Commission a petition by the Citizens Committee to Preserve the Present Programming of WGKA and WGKA-FM which seeks reconsideration of the Commission's action approving the transfer of control of the stock of Glenkaren Associates, Inc., as proposed in BTC-5580.

In light of the considerations set forth in the petition and in the responses thereto, the Commission is of the view that further information would be helpful in resolving the matters raised in these pleadings. Specifically, it is requested that you undertake further efforts to ascertain, by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community, taking into consideration the program services already available and the points raised in the aforementioned petition relating to loss of a classical music format.

It is further requested that this material be submitted no later than March 31, 1969.

This action was taken at a Commission meeting on February 12, 1969, Commissioner Bartley absent, Commissioner Johnson not participating.

BY DIRECTION OF THE COMMISSION

*Ben F. Waple*

Ben F. Waple  
Secretary

cc:  
Reed Miller, Esq.  
Glenkaren Associates, Inc.  
Henry Angel, Esq.

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The enclosed Exhibit A combines the results of the two surveys--representing a statistical sample of 1022 persons combined in the two waves of the survey.

It was clear from the first wave survey, filed in October, 1968, that the general public in the Atlanta area preferred the new Strauss music format by a heavy margin. The second wave of the survey, reaching 640 persons, reinforced that result. Attention is particularly invited to page 10 of Exhibit A where the respondents were asked to choose between two formats--one a classical format, the other the present WGKA format. 73% of the listening public chose the new Strauss format over the old classical format.

It should be further emphasized that the past claims of the Citizens Committee that its some 2000 letters and signatories to petitions in favor of classical music evidence a numerically superior demand for that type of service simply will not stand scrutiny. These were either voluntary letters or responses from persons solicited by the Committee from among only those who support classical music. It was not a random statistical sample designed to portray the varied tastes of the universe sampled. The attached M.A.R.C. study is a valid, statistical survey representing, by random sampling techniques, that 73% of all Atlantans would, if asked, vote in favor of the new Strauss format. (See cover letter to Ex. A, dated April 11, 1969, from M.A.R.C. to Reed Miller, assessing the validity of the M.A.R.C. survey as compared with that of the Citizens Committee.)

Exhibit B represents a somewhat different approach. Here M.A.R.C. interviewed 116 selected community leaders and businessmen. Presumably, the incidence of classical music lovers among this group might be higher than among the general public as a whole. Yet, even in this survey, when asked to choose between a classical format and a format designed to approximate the present Strauss format, almost 70% (80 out of 116) of the selected leaders chose the present Strauss format.

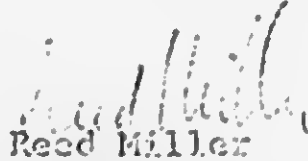
Exhibit C, a study of the formats of the other major Atlanta area stations as compared with the Strauss format, demonstrates that no other existing station is now supplying the "music mix" provided by Strauss, thus further demonstrating the need for the Strauss format.

Exhibit D is a compilation of unsolicited letters from viewers expressing appreciation of the type of music now broadcast on WGKA AM and FM.

Finally, the attached letter requests the Commission to take official notice of the coverage of the Atlanta area by Station WOMN, Decatur, Georgia. As the WOMN service contours demonstrate, a large portion of the City of Atlanta receives 2 mv/m and 0.5 mv/m service from WOMN which began broadcasting an all classical format in December of 1968 after WGKA ceased doing so. Thus, in addition to the classical and semi-classical music still offered by Strauss over WGKA-FM during evening hours, a large part of the Atlanta area public now receives daytime classical music service from WOMN. Certainly, this service should be adequate to satisfy the needs of the less than 1/2 of 1% (.34 percent) of the Atlanta area public who have expressed a desire for classical music. (See H.A.R.C. letter of April 11, 1969, attached to Ex. A.)

Strauss submits that the enclosed survey material, coupled with the material previously filed in support of its programming position, should remove any doubt as to whether or not its existing format is in the public interest. It is therefore once again respectfully requested that the Citizens Committee's petition for reconsideration and supplements thereto be denied or dismissed.

Respectfully submitted,



Reed Miller

Arnold & Porter

1229 - 19th St., N.W.

Washington, D.C. 20036

Counsel for Strauss Broadcasting  
Company of Atlanta

cc: Henry Angel, Esq.

# STRAUSS BROADCASTING COMPANY

Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5010

April 28, 1969

Mr. Ben F. Waple, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RE: BTC -5580

Dear Mr. Waple:

By letter, dated March 4, 1969, the Commission requested that Strauss Broadcasting Company of Atlanta, licensee of WGKA AM and FM, Atlanta, Georgia, undertake further efforts to ascertain that its programming proposals - and existing format - will serve the needs of its service area, taking into consideration other program services available and the contentions of the Citizens Committee to Preserve the classical music format formerly used by the transferor of control of the station.

In response, Strauss Broadcasting Company of Atlanta first urges the Commission to consider the listener survey conducted for Strauss by Marketing and Research Counselors, Inc. (M.A.R.C.) in October, 1968 which was submitted to the Commission as an exhibit to Strauss' "Motion to Strike Amendment to Partition for the Reconsideration and for a Public Hearing," filed October 10, 1968. This was a professionally conducted statistical survey among adult listeners in the Atlanta area which demonstrated a strong preference for the present format of WGKA as opposed to the former all-classical music format.

Second, in order to comply with the Commission's March 4 request, Strauss has caused the same professional research organization, (M.A.R.C.), to conduct a further and expanded statistical listener survey. The results of that report are attached hereto as Exhibit A.

The same research organization has conducted a survey of 116 selected community leaders and business men in Atlanta and surrounding communities. The interview sheets with these leaders are also attached as Exhibit B.

Further, Strauss has caused a study to be made of the type of program services available in the Atlanta area from the other major stations in the market. The results of that study are attached as Exhibit C.

KINF • KINF fm  
1040 kc 104.5 mc  
DALLAS, TEXAS

WGKA • WGKA fm  
1190 kc 92.9 mc  
ATLANTA, GEORGIA

KCEE • KCEE fm  
790 kc 96.1 mc  
TUCSON, ARIZONA

245

# STRAUSS BROADCASTING COMPANY

Executive Offices • 1401 South Akard Street • Dallas 75215, Texas • (214) 741-5016

In addition, there are attached as Exhibit D a compilation of letters received by WCKA from listeners since the new WCKA format was adopted.

Finally, Strauss requests the Commission to take official notice of Figure 12 to the Engineering Exhibit contained in File No. BP-14133 for Station WCKA, 1340 kc, 500 w, daytime only, Decatur, Georgia which, as of December 25, 1958, commenced broadcasting a classical music format. Figure 12 shows that WCKA places a 2 mv/m signal over approximately half of the city of Atlanta while the 0.5 mv/m signal covers all of the city except a small section in the Southwest in the College Park-Forest Park areas. The 2 mv/m signal includes 212,302 persons in an area of 122 square miles while the 0.5 mv/m covers 279,015 persons in 403 square miles.

The attached exhibits were prepared at the request and under the direction of Strauss Broadcasting Company of Atlanta and are true and correct to the best of my knowledge and belief.



Robert S. Strauss  
President  
Strauss Broadcasting Company  
(General Partner, Strauss  
Broadcasting Company of  
Atlanta)

Subscribed and sworn before  
me this 27th day of April, 1969.

  
Marie Philips  
Notary Public

(Seal)

My commission expires  
KXIL • KXIL fm WCKA • WCKA fm  
1040 kc 1040.5 mc / 1969 92.9 mw  
DALLAS, TEXAS ATLANTA, GEORGIA  
246

KCFE • KCFE fm  
790 kc 961 mw  
TUCSON, ARIZONA



MAR 6

April 11, 1969

Mr. Reed Miller  
Arnold and Porter  
1229 Nineteenth Street, N.W.  
Washington, D. C. 20036

Dear Mr. Miller:

The approximately 2,000 Atlantans who signed letters and petitions in favor of retention of a classical music format on WCKA and WCKA-FM represent a maximum of only .34 percent of all Atlanta, College Park and East Point people. If more than one member of each household signed, as is usually the case with petitions, the percentage of households represented would likely be less than one percent. The maximum households represented would be 1.1 percent of the total.

Therefore even with the effort exerted against the market by the proponents of classical music through the newspaper columns, newspaper ads and direct mail, only about one percent of the households responded. 7

With regard to the studies M/A/R/C conducted in Atlanta with a systematic sample of all telephone homes, the number of households contacted is important only for determining the reliability of the results obtained from sampling. The reliability of these studies based on statistical determination of error due to sampling is quite good. The sampling error, even if it had been at the maximum level which happens infrequently, would not have affected the conclusions drawn from the study.

It is not the total number in the sample but rather the proportion expressing a preference for specific programming that is the important consideration. If you know the reliability of the sample, then this proportion can be projected to the entire universe sampled; in this case, telephone homes listed in the Atlanta directory. Even in the October, 1968 study based on 382 men and women, the sample reliability is quite good. At the 90 percent confidence level, the maximum sampling error that should occur on an 85-15 percentage split would be a



MARC

Mr. Reed Miller

Page 2

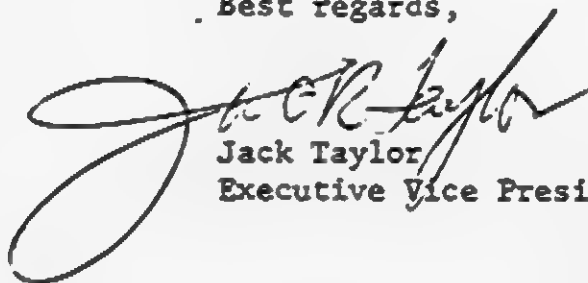
plus or minus 3.1 percentage points. In the October and March studies combined, the sample error on the same percentage split should be no more than a plus or minus 1.9 percentage points at the 90 percent confidence level. The very close agreement between the two surveys indicates no sampling aberration occurred in either.

Further strength is given to the conclusions of the M/A/R/C study due to the fact that it was conducted in telephone homes. Classical music should rate higher in telephone homes than in all households. Even when benefiting from this bias, the preference for classical programming fell materially below that for other types.

One last detail concerns the approaches used by the classical music group and by the M/A/R/C study: while the special interest of the committee was clearly evident, nobody knew the sponsorship of the M/A/R/C study, including the interviewers in the field. It would be impossible to determine the purpose behind the M/A/R/C questionnaire. The difference in degree of bias is obvious, and throws serious doubts on the value of the petition as a genuine sampling of public opinion.

If there is any further need for clarification, don't hesitate to call on me.

Best regards,



Jack Taylor  
Executive Vice President

JT:cc

Programming Preference  
Study

Radio Station WGKA  
Atlanta, Georgia

October, 1968 and  
March, 1969



## PREFACE

### OBJECTIVE:

To determine radio programming preferences among adults in Atlanta, Georgia.

### METHODS:

This study was conducted in two waves: the first in October, 1968, with a sample of 382 respondents selected on a systematic basis from the current telephone directory of Metropolitan Atlanta; the second with a similar sample of 640 respondents in March, 1969. Only adults were interviewed.

Respondents totalled 1,022 in the combined waves, with 510 men and 512 women interviewed.

All interviews were conducted by telephone by trained market research interviewers working under a qualified M/A/R/C Field Supervisor. This supervisor is a member of the M.R.T.A., a professional research trade association made up primarily of independent field supervisors and field directors of major corporations.

Interviewers were provided a structured questionnaire and were trained in a central briefing session. Five percent of each interviewer's work was verified by the supervisor for accuracy, authenticity and interviewer attitude.

TABULATION  
OF RESULTS:

All data have been edited, coded and transferred to IBM cards. These cards will be kept on file for two years and are available for additional cross-tabulations at the regular hourly charge. Original questionnaires will be kept on file for one year and are available for examination or study at any time during the period.

SYMBOLS USED  
IN THE REPORT:

Throughout the report, an asterisk (\*) sign indicates that the number was less than one-half of one percent. A hyphen (-) indicates that there was no response. Any totals that exceed 100% indicate that there were multiple answers to the particular questions.

The base upon which the percentage is figured is given in parentheses at the foot of each table. If the raw number for any element in the distribution is needed, it can be calculated by multiplying its percentage by the base number.

GENERAL RESULTS

1. The strongest preferences in overall listening among adults in Atlanta are shown for Broadway show tunes, standard popular songs and movie theme music when these are matched against varying types of musical programming. Top-40 hits were the fourth category in overall popular response.
2. The same four programming types were mentioned most often by respondents who indicated the types of music they would like to hear every day. Opera, ballet, symphonic music and novelty tunes did not rate as well with respondents as daily radio fare.

Music Respondents Would  
Like to Hear Every Day

Popular Standards	39%
Top-40 Hits	33
Broadway Show Tunes	27
Movie Themes	27
Country and Western	25
Novelty Tunes	18
Symphonic Music	18
Ballet Music	11
Operas	9

3. Almost half of respondents indicated that they never like to hear operas and ballet music. Almost one-third said they never liked to hear symphonic music.

Music Respondents Do Not  
Like to Hear at All

Operas	49%
Ballet Music	45
Symphonic Music	32
Country and Western	29
Novelty Tunes	21
Top-40 Hits	18
Broadway Show Tunes	14
Movie Themes	12
Popular Standards	10

STATISTICAL APPENDIX

1a. Do you have a radio at home?

Home - AM

Yes	99%
No	<u>1</u>

100%

Base - total respondents (1022)

1b. Can you receive FM in your home?

Home - FM

Yes	72%
No	<u>28</u>

100%

Base - total respondents (1022)

1c. Do you have a radio in your car?

Car - AM

Yes	83%
No	<u>17</u>

100%

Base - total respondents (1022)

1d. Can you receive FM radio in your car?

Car - FM

Yes	19%
No	<u>81</u>

100%

Base - total respondents (1022)



2. Now, I'd like to know something about the music you like to hear on the radio. First, which one of these three kinds of music do you prefer?

Top-40 Hits, like "The Straight Life," "Fire," "Girl Watcher."	35%
Movie theme music, like "Dr. Zhivago," "Born Free," "Goldfinger," "The Graduate."	40
Ballet, like "Petrouchka," "Swan Lake," "The Sorcerer's Apprentice"	11
None of these	<u>14</u>
	100%
Base - total respondents	(1022)

Now, which one of these three do you prefer?

Operas, like "The Barber of Seville," "Aida," or "Carmen."	10%
Country and Western Hits, like "Next in Line," "Mama Tried," "Happy State of Mind," "Flower of Love."	31
Broadway Show Tunes, like "Mame," "Cabaret," "Hello Dolly."	51
None of these	<u>8</u>
	100%
Base - total respondents	(1022)

And which one of these three do you prefer?

Standard Popular Songs, like "Stardust," "Moonglow," "Night and Day."	48%
Symphonic Pieces, like "The Pines of Rome," "The Emperor Concerto," "The New World Symphony."	14
Novelty Tunes, like "Tijuana Taxi," "The Lonely Bull," "A Taste of Honey."	28
None of these	<u>10</u>
	100%
Base - total respondents	(1022)

3. Now, I'd like you to tell me how frequently you like to hear these types of music. Do you like to hear...

	<u>Every day</u>	<u>Once in a while</u>	<u>Not at all</u>
Top-40 Hits	33%	49%	18%
Movie Themes	27	61	12
Ballet Music	11	44	45
Operas	9	42	49
Country & Western	25	46	29
Broadway Shows	27	59	14
Popular Standards	39	51	10
Symphonic Music	18	50	32
Novelty Tunes	18	61	21
Base - total respondents	(1022)	(1022)	(1022)

- 4a. Is there any special kind of music you would like to hear more on the radio? (Specify)

No/none/no other needed	50%
Classical	11
Movie, Broadway, Standards	11
Rock & Roll, Top-40 Hits	4
Country & Western	5
Novelty tunes (blues, jazz, soul, Hawaiian)	9
Not particular about music	*
Religious Music	11
Other	1
No report	*
Don't know	<u>1</u>
	103%
Base - total respondents	(1022)

NOTE: Percentages add to more than 100% due to multiple answers.

4b. Is there any other kind of radio program you feel is needed in Atlanta?

No/none/no other needed	79%
Religious programs	3
Discussion type program/political	6
Education program/informative	3
News	2
Drama/Soap Opera	1
Classical/symphony/WGKA	1
Sport	*
Other	2
No report	1
Don't know	2

100%

Base - total respondents (1022)

5. Which of these two formats would you prefer to listen to daily?  
(Asked only in 2nd Phase)

a. A blend of Broadway show tunes like "Mame" and "Cabaret", movie themes like "Dr. Zhivago" or "Born Free" and standards like "Moonglow" and "Stardust" plus hourly newscasts. 73%

b. A blend of Opera symphonic pieces like "The Emperor Concerto" or "The New World Symphony" and Ballets such as "Petrouchka" and "Swan Lake" plus news approximately every hour. 16

Neither/none 7  
No reply 4

100%

Base - total respondents (640)

CLASSIFICATION

AGE:

18 - 34	40%
35 - 49	33
50, over	<u>27</u>

100%

Base - total  
respondents (1022)

SEX:

Male	50%
Female	<u>50</u>

100%

Base - total  
respondents (1022)

FAMILY INCOME:

Under \$7,500	28%
\$7,500 - \$15,000	48
Over \$15,000	19
Refused	<u>5</u>

100%

Base - total  
respondents (1022)



April 22, 1969

Mr. Reed Miller  
Arnold And Porter  
1229 Nineteenth Street, N.W.  
Washington, D.C. 20036

Dear Mr. Miller:

You have examined the questionnaires of the <sup>1</sup>216 interviews we had made in the Atlanta area. Each interview is identified by name, address and occupation of the respondent. Those questionnaires numbered from 001 to 052 were made in person. Those numbered from 101 to 164 were made by telephone.

No list of respondents was prepared by our office. Our supervisor in Atlanta was instructed to interview a sampling of area community and business leaders. At no time was any respondent, any interviewer or the Atlanta supervisor informed of the identity of our client. This client anonymity is necessary to prevent respondent or interviewer bias.

Copies of all completed interviews are in your hands.

You have already received the results of an inquiry based on a systematic sample of the Greater Atlanta Telephone Directory.

Please call if any questions arise.

Cordially,

A handwritten signature in cursive script that reads "Wells Bruen".

Wells Bruen  
Manager-Media Research

WB:cc

cc: Jack Eisele, KIXL

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Following are 2 examples of the 116 Questionnaires attached to Exhibit B. The remaining 114 Questionnaires contain the identical form and are located in this Court's official record, but are too numerous to economically reproduce herein and would add no new information.

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Marketing  
And Research  
Counselors,  
Inc.

Marketing And Research Counselors, Inc.  
Survey #46163

Hello, I am H. Smith with Marketing And Research Counselors, Inc.  
We are making a survey, among people active in Atlanta's community affairs, about  
Atlanta's community needs. We'd appreciate your brief comment on five questions.

1. As you see it, what are the most pressing needs in the Atlanta community?

1. Transportation - bus, parking

2. Police - Night Patrol

3. Police Relations

4. Expansion of Education

2. In the past year what radio stations have you listened to regularly?

5. Pullman

6. WTCB

WSP - WGST, WFWB

WTCB - WKX

3. Is there any type of music currently played by Atlanta radio stations you feel  
could be better presented? How?

More symphonies

Popular standard music

4. Which of these two formats would you prefer to listen to daily:

a. A blend of Broadway show tunes like "Mame"  
and "Cabaret", movie themes like "Dr. Zhivago"  
or "Born Free" and standards like "Moonglow"  
and "Stardust" plus hourly newscasts?

b. A blend of Opera symphonic pieces like "The  
Emperor Concerto" or "The New World Symphony"  
and Ballets such as "Petrouchka" and "Swan  
Lake" plus news approximately every hour?

Executive  
Vice President  
Atlanta Chamber  
of Commerce

NAME H. Smith

FIRM ORGANIZATION Chapman & Co.

ADDRESS 1000 Peachtree St. N.E.

PHONE 375-3151

VERIFIED BY H. Smith

INTERVIEWER H. Smith

INTERVIEWER # 263

Popular



Marketing And Research Counselors, Inc.  
Survey #6163

Hello, I am N. S. Smith with Marketing And Research Counselors, Inc.  
We are making a survey, among people active in Atlanta's community affairs, about  
Atlanta's community needs. We'd appreciate your brief comment on five questions.

1. As you see it, what are the most pressing needs in the Atlanta community?

Public Transportation  
Police Problems  
Enlightenment - more information - training  
More Education

2. In the past year what radio stations have you listened to regularly?

WSP WOK 4

3. Is there any type of music currently played by Atlanta radio stations you feel  
could be better presented? How?

WSP  
Public Administration

4. Which of these two formats would you prefer to listen to daily:

a. A blend of Broadway show tunes like "Mame"  
and "Cabaret", movie themes like "Dr. Zhivago"  
or "Born Free" and standards like "Moonglow"  
and "Stardust" plus hourly newscasts?

b. A blend of Opera symphonic pieces like "The  
Emperor Concerto" or "The New World Symphony"  
and Ballets such as "Petrouchka" and "Swan  
Lake" plus news approximately every hour?

NAME: Thomas S. Smith FIRM ORGANIZATION: American Red Cross  
ADDRESS: 1111 Peachtree St. N.E. PHONE: 377-2222  
VERIFIED BY: W. S. Smith INTERVIEWER: W. S. Smith  
INTERVIEWER: W. S. Smith

Metropolitan  
Atlanta Chapter  
Public Office  
Miami

264

Classical

STATE OF GEORGIA )  
 ) ss.: AFFIDAVIT  
COUNTY OF FULTON )

W. H. McCain, being duly sworn, upon his oath,  
deposes and says as follows:

My name is W. H. McCain and I am the Manager of  
Operations of Stations WGKA and WGKA-FM, Atlanta, Georgia.

The attached document, entitled "Atlanta Area Station Program Analysis", was prepared by me and the matters and facts set forth therein are true and correct to the best of my knowledge and belief.

The analysis is based upon monitoring of the stations discussed therein during the week of March 17 through March 22, 1969. The monitoring was conducted by competent personnel under my personal direction and supervision. The analysis also includes information which I have personally acquired through listening to these stations in the recent past.

W. H. McCain  
W. H. McCain

Subscribed and sworn to before me  
this 17 day of April, 1969.

Notary Public

(Seal)

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ATLANTA AREA STATION PROGRAM ANALYSIS  
PAGE 1

WGKA

(1,000 WATTS Day)

1190 KC

Designed for discerning adult audience. Music programmed from area of popular standards, Broadway show tunes, movie themes, currently popular music that is given treatment consonant with adult acceptability. All music pre-selected and order of play charted to insure proper transitional flow with balance between instrumentals and vocals. No music of other classification (i.e. rock and roll, country and western, etc.) is ever played.

Five minutes of combined local and national and international news is presented hourly. News briefs are also presented hourly. News briefs are short summaries of news of greatest importance at that time in fully stated sentences (not teasers). Supplementing these news features are the full services of United Press News Wire, United Press Audio, and local actualities collected by WGKA News Staff. Longer and more frequent newscasts are offered during driving time from Sign-on to nine o'clock in the morning and four to six-thirty in the evening. Each newscast is capped with a complete area weather forecast. The nine twenty-five morning news is devoted entirely to Business News with emphasis upon local business news.

Other daily features include: Dow Jones Interim Market Averages twice each hour (updated) with a full stock market summary at five-fifteen in the afternoon. Frequent "Think It Over". This is a short, specially produced feature that is composed of inspirational or thought provoking quotations, epigrams, etc. appreciated by adults and intelligent youths alike. Jetstream Weather, heard several times daily, offers current temperatures and weather conditions in cities and towns across the entire country. This feature is interesting to anyone - but especially to those planning travel or have friends and loved ones in distant locations.

"Today's World of Sports" is a five minute daily broadcast of interviews with sports figures, scores and sports information heard at five-fifty-five in the evening. One newscast on Sunday is a comprehensive review of the past weeks important news highlights. A Weekly Business News Summary supplants one newscast on Saturday.

Emergency weather bulletens, news bulletens, etc. are inserted immediately into all programming when warranted.

ATLANTA AREA STATION PROGRAM ANALYSIS  
PAGE 2

WGKA (continued)

Below are listed some of the artists and selections that typify music heard on WGKA. Please bear in mind that the listing does not imply that all performances by the artists would be acceptable to WGKA programming. The same qualification applies to musical selections (IE: Yesterday, performed by the Beatles, no! Performed by the Boston Pops Orchestra, yes!).

Artists:

Living Strings, Andre Kosterlanetz, Conniff Sings, Jerry Vale, Dean Martin, Bert Kaempfert Orchestra, Robert Goulet, Mills Brothers, Lawrence Welk Orchestra, Les Elgart Orchestra, Boston Pops Orchestra, Enoch Light Orchestra, Tony Bennett, David Carrol Orchestra, Roger Williams Orchestra and Chorus, Werner Muller Orchestra, Mantovani Orchestra, Briarcliff Strings, Frank Sinatra, Julie London, Andy Williams, Frank Devol Orchestra.

Selections:

Theme From Dr. Zivago, The Good Life, Try A Little Tenderness, Siboney, But Not For Me, My Foolish Heart, Close Your Eyes, Vaya Con Dios, Brasilia, I Love Paris, For Me And My Gal, My Favorite Things, Once In A While, Neverthe less, Meet Me Tonight In Dreamland, Please, On A Clear Day, I Wish You Love, My Home Town, Let's Fall In Love, Dancing In The Dark, Wish You Were Here, Gigi, Marie, Deep Purple, Stranger on The Shore, A Taste of Honey, I Get A Kick Out Of You, All Over The World, It's Magic, You Were Meant For Me, The Nearness Of You, Serenata, It's A Grand Night For Singing, Moon Love, Be My Love, Let's Get Away From It All, Magic Is The Moonlight, Penthouse Serenade, If You Were The Only Girl In The World, The Song Is You, Theme From 'I Am A Camera'.

ATLANTA AREA STATION PROGRAM ANALYSIS  
PAGE 3

WGKA-FM

(100,000 WATTS)

92.9 MG

Programming of WGKA-FM music is basically the same as WGKA-AM from six in the morning to six-thirty in the evening with a slightly greater stress on lush, highly orchestrated arrangements. All music on WGKA-FM is broadcast in full range stereo. No music is simulcast with WGKA-AM. The only duplication of service are the five minute hourly newscasts. Even such features as the Dow Jones Interim Market Averages and complete stock summary are heard at different times.

However, the format of performing the music is distinctive on WGKA-FM. Selections are played in sequential groups through segue and commercial announcements are clustered. This provides for more uninterrupted music.

After six-thirty in the evening a transition in music occurs. At six-thirty WGKA-FM presents thirty minutes of "Gentle Jazz" which, as the name implies, is classical jazz of sophistication. This is followed by "Candlelight and Wine" - light, pop concert and music hall ideal for relaxation or to dine by. At eight o'clock until twelve midnight all music is from the traditional classical music spectrum. The master-works of all the great composers are offered to lovers of classical music. Each Sunday night one of the great operas is heard in its entirety. In stereo.

# ATLANTA AREA STATION PROGRAM ANALYSIS

WAOK (5,000 WATTS)

1380 KC

An ethnic station for negro listeners.

WFOM - Marietta

(1,000 WATTS - Day 500 WATTS - Night) 1230 KC

A "Top 40" Rock and Roll station.

WERD

(1,000 WATTS - Day)

860 KC

An ethnic station for negro audience.

WIGO

(1,000 WATTS - Day 250 WATTS - Night) 1340 KC

An ethnic station for negro audience.

WPLO-AM

(5,000 WATTS)

590 KC

Country and western exclusively. Plus news.

WPLO-FM

(5,000 WATTS)

103.3 MG

Programs loud harsh jazz at night. Extreme rock and extreme jazz. Plays four to five selections in sequence. Some record identification but usually over the end of selection and can scarcely be understood. News on the hour and half hour. ID's and time given to separate a record sequence. Very few short public service announcements. Typical artists featured: Beatles, Brothers Of Invention, Country Joe, Tempters, Fifth Dimensions, Beach Boys, The First Edition, Buffalo Springfield, Iron Butterfly.

WKLS-FM

(100,000 WATTS)

96.1 MG

Plays standards. These are mostly instrumentals with a very few scattered vocals. Approximately 21 per hour. No record identification. Little talk. ID's, time and temperature and headlines only for news. Commercials average about four per hour. No record identification. Some music titles: Best Things in Life Are Free, I Love A Piano, Stranger In Paradise, Margie, Heat Wave, You Are My Sunshine, Georgia Girl, Sabre Dance.



# ATLANTA AREA STATION PROGRAM ANALYSIS

Page 2

WGST (5,000 WATTS Day - 1,000 WATTS Night) 920 KC

The music played is heterogeneous. This will be apparent from the list of title and artists. No labels are mentioned, but it is apparently elective whether artist and title is identified.

## Some Titles:

Grazing In The Grass, Don't Sleep In The Subway, Darling, No Not Much, Leaving This Straight Life Behind, A Woman Helping Man, This Gal Is In Love With You, Let It Be Me, Can't Take My Eyes Off You, Galveston, Seattle, Rock Your Feller, Jim Town Road, Lolly Pops, Someone Hears You, Lord, Franklin Avenue Hero, Laura, To Each His Own.

## Some Artists:

Dionne Warwick, Hugo Montenegro, Inglebert Humperdinck, Barbara Streisand, Petula Clark, King Richard, Clancey Brothers, Jack Smith, Carmen McRae, Colony Six, Percy Faith, Glenn Campbell, Paul Anka, Cinderella, The Additions, Bobby Goldsboro, Jimmy Rafelli, Elvis Presley, Baja Marimba Band, Classics Four, The Associations, Connie Francis, Sammy Davis, Jr., Frankie Lane, Louis Armstrong, The Vogues, The Seekers, Roger Williams, Brass Ring, Jerry Vale.

Mutual network news is broadcast on the hour. This is usually preceded by a five minute local news report that is competently done. Fifteen and thirty minute talk shows of a discussion or panel type are occasionally broadcast during evening hours. Very light on public service announcements. Frequent station ID's -- many of the musical jingle genre.

WGST has a plethora of contests. Scarcely a quarter hour passes without either a contest or contest promotion.

In the morning hours they race. The tempo eases somewhat later in the day.

Station claims a heavy sports service. This can be somewhat justified as they, naturally have exclusive access to all Georgia Tech sports. They feed a regional network of station Tech football games and during the season, also, carry other regional games fed to them on Friday nights and Saturday during hours the Yellow Jackets aren't competing. Also, broadcast stock car races when available. Various Georgia Tech coaches conduct their own program (sponsored) when their particular sport is in season. They at one time carried the Chicago White Sox games.



ATLANTA AREA STATION PROGRAM ANALYSIS

Page 3

WGUN (50,000 WATTS Day) 1010KC

This 50,000 Watt Daytimer is directed to a rural audience. Morning time is mostly religious programming in half hour blocks. These are paid for by the church or minister and of the fundamentalist variety. Music is gospel and country. Some news.

WOMN (500 WATTS) 1310 KC

An all-classical music station. Has a number of newscasts of five minutes duration, but mostly three minutes. Some weather information in detail -- mostly in brief. Also, features arts calendar and informational announcements of cultural interest.

WAVO (1,000 WATTS Day) 1420 MG

Basically religious music and religious programs.

Is owned by Bob Jones University of Greenville, South Carolina. The University is theosephic in nature. Station also has such features as "Thought For The Day", "Our Daily Bread", Uncle Remus Stories for children. Station plays classical and light classical "For Your Driving Pleasure" from 4:15 to 6:00 pm.

Uses news capsules or briefs. A fifteen minute extended news at 5:00pm. Other programming: Stock Market Reports, News of Help For The Blind; some sports, weather. These immediately following the 5:00 pm news.

Music is (other than religious) mostly light classics and familiar traditional melodies.

WQXI-AM (5,000 WATTS) 790 KC

Fast moving rock and roll station with large teenage appeal. Has also served as Flagship Station for Atlanta Falcons' Professional Football Team NFL broadcasts on radio since inception of professional football in Atlanta.

# ATLANTA AREA STATION PROGRAM ANALYSIS

Page 4

WQXI-FM

(100,000 WATTS)

94.1 MC

A 24-hour operation offers a mixed bag of music from old standards to new rock. No extreme rock, however. Features two business news reports per hour. Not fish nor fowl in music character as best exemplified by these tunes that were heard over a short period of time: Meaning Of The Pledge Of Allegiance, Elephant Walk, Out Of My Head Over You, Chattanooga Choo Choo, Classical Gass. Artists: Vicki Carr, Bert Kampert, The Vogues, Harpers Bazaar, Frank Sinatra. About fifty percent each vocal and instrumental. No identification of records.

Scattered weather, headlines, promotional announcements and commercials.

WSB-AM

(50,000 WATTS)

750 KC

An old pioneer station. Employs a large news staff that does an above-the-average job of extensively covering local and state news. State news is given a heavy emphasis due to station's maximum power of 50,000 watts. Other programming runs the gamut of music and talk. Included are an agricultural program in the early AM that is done in cooperation with the University of Georgia in Athens with a part of the show originating there. At 12:30 each day the syndicated "Back To The Bible", telephone audience participation shows with listeners giving their opinion of assigned subjects via telephone, many listener participation games -- such as: Identify The Secret Sound, Identify The Mystery Voice, etc. Also, is Flagship Station for WSB Baseball network during season. Broadcasts University of Georgia football games in Fall. Makes heavy use of NBC Monitor during the weekend. Also, broadcasts NBC News on the hour on AM as well as PM. Special NBC News features such as those prepared by Huntley and Brinkley. Music, of late, has tended to the louder "younger" set appeal such as Inglebert Humperdinck, Tom Jones, etc.

During traffic periods helicopter traffic reports, time and temperature and usual morning services are interspersed. Gives no record label identification, but does give music title and artist. Heavy commercial load.

2 / 1 -

ATLANTA AREA STATION PROGRAM ANALYSIS

Page 5

WSB-FM

(100,000 WATTS)

98.5 MG

This is a basic music and news (plus play-by-play sports occasionally). News is the NBC Hourly five minutes. Music is divided between vocal and instrumental with an emphasis on vocals and ranges widely from standards to mild rock. Examples: Feeling Groovy, Up Up and Away, Moon River, Mrs. Robinson, Anchors Away, Boom Bang Bang, Jim Town Road, Spanish Flea.

Short PSA's and promotional announcements. No talk programs, but features like, "Questions and Answers On Famous People". Frequent ID's and time signals. No music identification. Fifty-five minutes of classical music each night Monday through Friday -- 8:05 to 9:00pm.

ATLANTA AREA STATION PROGRAM ANALYSIS

Page 6

WTIN

(5,000 WATTS Day)

970 KC

The station has altered its programming and policies at frequent intervals. The music is an amalgam from a base of popular standards on into light rock and folk tunes and songs. Rather heavy with vocals.

Examples: Artists -- Al Hirt, Glenn Campbell, Steve Lawrence, Robin Wilson, Trini Lopez, Perry Como, Nashville Brass, Lennon Sisters, Jimmy Dean, Herb Alpert, Bert Kampert, Jubilee Joe, Four Freshmen, Brooks Benton, etc.

Titles: My Beautiful Balloon, A Rose Is A Rose, Chitty-Chitty Bang-Bang, Blues In The Night, So Many Ways, Green Back Dollar, Bossa Nova, Gentle On My Mind, Hi Lilly Hi Lo, Sunshine Wine, By The Time I Get Back to Phoenix, Happy Heart, Jim Town Road, Folsom Prison Blues, Don't Sleep In The Subway, Darling, Cabaret, Elusive Butterfly, Java, Hey Jude, Sugartime, My Cup Runneth Over, Flight To Phoenix, What A Wonderful World, Wichita Lineman, etc.

There seems to be no policy on music identification. Some selections are named and artist name announced. Some are not. However, identification of any kind is infrequent.

During morning and evening drive time, station utilizes traffic reports (10 in morning - 10 in afternoon) furnished from an airplane subsidized by Big Apple Grocery chain as part of trade and sales agreement. They call this "Eye In The Sky".

News on the half hour (5 minutes) is from one of the splinter network news services of ABC. Local headlines and weather on the hour. An extended newscast by Paul Harvey featured at noon. Dow Jones interim averages broadcast twice hourly.

Airs frequent station promotional announcements. Public service announcements are rare birds. Conducts many contests aimed at audience promotion with listener participation by phone and letter. Give-aways used on these vary from trading stamps to merchandise to records.

7/1

BEST COPY  
from the original

1/11/69

Dear Sir:

I am writing to you how much I enjoy  
your music programming on WAKA. As  
a new resident of Decatur, I find your  
better music programming most enjoyable.  
Please continue the good music.

Also, I collect radio station letterhead  
as a hobby. And I would be most appreciative  
if I could add a WAKA letterhead  
to my record collection.

Sincerely

George J. Eohn, Jr.

GEORGE J. EOHN, JR.  
CLINT ACRES APARTMENTS  
3927 GLENWOOD ROAD, APT. 1  
DECATUR, GEORGIA 30033

(115-1000)

275

7961515

144 S. HUNSTON BLVD.  
3756 DECATUR DRIVE  
CHAMBERLAIN, GEORGIA 30611



DON JONES  
 340 Peachtree Road, N.E.  
 Atlanta, Ga. 30303  
 Office: 213-5025 Residence: 761-3316

Gentlemen:

I'd like for you to add my name  
 to the growing list of admirers  
 of WABZ. For several weeks, I've  
 been listening to this station --  
 about 70% of the time. I love the  
 choice of music -- the great, hits,  
 (my mind goes back to the 60s, 70s,  
 80s, 90s, and 2000s). And what  
 a host from the circus, rather type  
 of announcer. The first thing  
 that I do when I get in the car,  
 is to turn on WABZ -- it's  
 always there. I don't change  
 anything.

9-5-68

PHAKKI, down WABZ, for continuing  
 with the gentle sound!

In appreciation,  
 Dave Lepp

Wm. W. J. Malone,  
 2886 Calhoun Drive,  
 Decatur, Georgia, 30032

Dear Mr. Jones:  
 I have been the host, announcer  
 on WABZ in town. I'll be  
 to know you in person one day.  
 Keep up the good work!  
 Leslie P. P. P.  
 WABZ 103.5

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GEORGIA TECH  
ATLANTA, GEORGIA  
March 11, 1969

Gentlemen:

Just a note to say I enjoy your stereo  
radio station the best.

In particular, I would like to recommend  
that the half hour Gentle Jazz program  
be extended to one hour. I look forward  
to the program every evening. Your  
selections are very enjoyable, even to  
someone like myself who knows nothing  
about jazz.

The only time I switch to WSB is during  
the opera program. I think you should  
retain the program but, shorten<sup>be</sup> it.

Sincerely,

*Stephen L. Clouse*

Stephen L. Clouse

Georgia Tech Box 31565  
Atlanta, GA 30332

W.G.H.A.

11-11-69

GENTS:

LOVE YOUR NEW FORMAT -  
KEEP UP THE GOOD WORK.

SINCERELY,

C.C. MORGAN  
1600 BELLE ISLE CR NE  
ATLANTA, GEORGIA 30329

To Radio W. 53.6:

We wish to thank  
you for the "pleasant"  
musical number  
you present. The  
enjoyable, relaxing,  
pleasant music

Also, we commend  
your new reports.  
They do not sound  
like some we've  
been subjected to:  
distorting the source  
reports or decisions  
or making  
they are a far cry.

We thought you  
will continue to  
your present way  
pleasantly.

Best wishes,  
Barbara C. Morgan

R. G. McConnell  
Campton, Ga

Specimens of the  
 "Three much of any day" were  
 "New account" of the first  
 about all day. I think  
 you need your money.  
 Mrs. E. J. Padua  
 30 Pine Street  
 Boston, Mass. 30.578

Nov. 24, 1918

Gentlemen:  
My wife and I wish to  
express our appreciation for  
your Sunday evening program,  
Opera House.

Sincerely,  
David M. Newell

Oct. 20

We have just discovered WGTB after looking sometime for a good TV station. By chance do you publish a program schedule or does any of the Atlanta papers?

Sincerely,

*[Signature]*

THE REV. AND MRS. JACK M. BOWER  
RAGON GAP NACOGEE SCHOOL  
RAGON GAP, GEORGIA 304

279

JOE GARDNER

Date \_\_\_\_\_

WOLFA  
230 Peachtree Street, NW  
Atlanta, Georgia 30303

## Conclusion:

I would like to raise my small voice in approval of your wonderful programme.

that I need of the very ground of religion.  
I am reading the words of your magnificent  
I am reading the words of the most noble prophet  
I am reading the words of the most noble prophet.

[illegible]

I do *not* fear to be thoroughly and to have  
a new education particularly not on my own radio.  
And, regarding and wishes for success.

your regards and wishes for success.

[illegible]

7.1.14

[illegible]

280

**BEST COPY**  
from the original

5 Nov. 1968

Am enjoying your program very much.

Don't change a thing!

Wesley  
48 HENNER  
5555 Roswell Road NE  
Atlanta 30305

11/7  
Have nice Christmastime  
like really music  
which listening to  
the Atlanta area.  
Keep it up!  
Wesley H. H. H. H. H.  
5555 Roswell Road NE  
Atlanta 30305

1 Certainly  
do enjoy your  
program - from  
6<sup>am</sup> midnight.  
Wish I could  
listen to every  
minute of it.

Robert G. McConnell  
RT. 1, CAMPTON, GA.  
(near Monroe)

10/16/68

Gratias -  
Don't listen to these ones.  
Your station's new format is  
fine. Just what we need, Sun in  
PM on the 10 PM. Like the  
music, jazz & classical. No  
longer. What we need to hear  
off. More of the station's  
Sun on the 10 PM. Don't  
change.

CHARLES E. MCGEEHAN

David D. Dempsey  
3116 Alford Dr. (Apt. 2-11)  
College Park, Ga., 30607

January 15, 1969

Station Manager  
WMMR-TV Radio Station  
Atlanta, Georgia


Dear Sir,

This is just a short note to express my appreciation to you and all the personnel of your fine radio station. I am a new pilot employee of Delta Air Lines and I have been living in Atlanta for the past few months during the training period. I am a great lover of music, and I am especially devoted to the oldies. Your music and especially your evening classical program is a great deal to my life here at my home-away-from-home. Among other things, I have my stereo equipment and my music collection - your station has done a good job of filling this gap! I am a regular listener to WMMR and I look forward to each of your evening programs.

I hope that you continue your present standards of programming. Your station is a tribute to the city of Atlanta. I wish you success in your present way of doing things. In my opinion, it is for stations such as yours that the oldies should be preserved. Keep your frequency clear of the chronic commercials and typical gibberish that tarnishes most stations and you will always be Number One by me.

Thank you. Your presence is very much appreciated.

Sincerely,

  
David D. Dempsey

282

BEST COPY  
from the original

Nov - 11 1945

Dear W O W.

I first heard your  
music today. I was in  
a Beauty Salon, I came home  
and tuned in, its so good  
to hear good music without  
the screaming-foolish, crazy  
commercial.

Please don't ever leave  
us.

Sincerely yours

283 Mrs. Margaret Franklin  
451 Ashwood St. N.Y.

ROGER D. JACOBS

POST OFFICE BOX 1438  
ATLANTA, GA.

REGISTERED  
THE HARTMAN COMPANY  
INCORPORATED

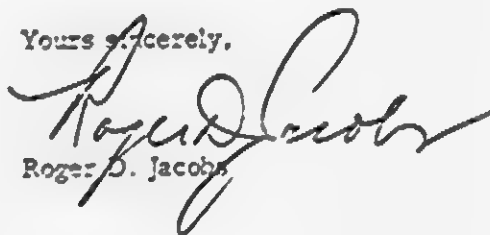
January 9, 1969

Gentlemen:

I was one of the people who hated to see the old format dropped. However, I have been extremely pleased with your new system of programming and should like you to know that WGKA is better than ever, and I listen to it more consistently.

Kindest regards.

Yours sincerely,



Roger D. Jacobs

WGKA Radio  
230 Peachtree, N. W.  
Atlanta, Georgia

cc: Mr. Paul Jones  
Atlanta Constitution

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BEST COPY  
from the original



P. O. Box 175  
Collegedale  
Tennessee 37325  
21 October 1968

Radio Station WGKA-FM  
Atlanta, Georgia

Gentlemen:

When my family and I decided to move from eastern North Carolina to Collegedale, we looked forward to the possibility of having a better selection of musical programs on radio--especially FM. But we did not dare hope for the splendid programming that we now enjoy over WGKA-FM. My own favorite time is the Sunday night spot; but we also enjoy your early morning programs, as well as those of many evenings during the week.

I wonder whether you could advise me as to how I might obtain a copy of the Atlanta magazine described recently over the air--the one containing an article on transit. I'm enclosing a stamp to facilitate reply.

Thanks again for the outstanding service provided by your station.

Truly yours,

*R. R. Morrison*

Robert R. Morrison

285

3137 Chateau Blvd.  
East Point, Georgia 30344  
October 21, 1968

Radio Station WXXL  
Atlanta, Georgia

Gentlemen:

I would like to take this opportunity to convey my compliments on your excellent programming. Your FM programming is certainly refreshing and stimulating especially when compared to the "music to ignore" of all the other stations. To my knowledge you offer the only high quality broadcasts of classical music in the Southeast. Your FM quality is also far superior to all competition. I hope you plan to continue the present policies as the are greatly appreciated.

Yours truly,

*George A. Wood*  
George A. Wood

. 286

BEST COPY  
from the original



A DIVISION OF THE COCA-COLA COMPANY  
ADVERTISING & SALES PROMOTION DEPARTMENT

ADDRESS REPLY TO  
P. O. BOX 154  
ATLANTA GA 30301  
TELEPHONE 871 34

November 12, 1968

Radio Station WGKA  
1910 Peachtree Center Building  
Atlanta, Georgia 30303

Dear Friends:

I am sorry that I will be unable to attend your reception and cocktail party on November 13, 1968. I will be in Detroit, Michigan on business.

I would like to thank the Officers and Directors of Strauss Broadcasting Company for inviting me, and you would be pleased to know that I have a radio in my office and listen to your very beautiful music from 8:00 A. M. to 5:30 P. M. every day.

Yours with refreshment,

Charles B. Bottoms, Jr.  
Merchandising Manager  
Home Market

CBBjr/pmg

287

2217 Beecher Circle, S.W.  
Atlanta, Georgia 30311

November 25, 1963

Manager  
W G K A Radio Station  
330 Peachtree, N. W.  
Atlanta, Georgia

Dear Sir:

Every morning when I turn my radio on, I say to myself, "I must write W G K A and tell them how much I enjoy their programs."

I enjoy your programs because you play "adult" music, that is, music which is familiar to those of us who are in the middle years.

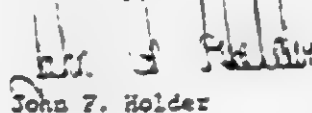
I enjoy your programs because your announcers do not breathlessly make statements as if they were pontificating from St Peter's itself.

I enjoy your programs because you do not interrupt every selection of music with a commercial (but I know of course that you must have commercials in order to operate).

I am not one who is complaining because of lack of classical music over the radio. Frankly, I love classical music, but I don't want to hear it constantly. When I am in the mood for operas or symphonies, I have my record player available, or I can attend one of the fine musical offerings abounding in Atlanta.

This letter turned out longer than I meant it to be, for I only wanted to say, "Thank you for a fine radio station."

Sincerely,

  
John F. Holder

288

BEST COPY  
from the orig

Henry W. Van Duren  
2532 Blair Knoll Dr. N.E.  
Atlanta, Georgia 30329

Atlanta, Georgia  
April 11, 1969

Station Manager  
WCKA Radio Station  
230 Peachtree St. N. W.  
Atlanta, Georgia

Dear Sir:

Over the past several months I have enjoyed very much the programs transmitted over WCKA; particularly the musical selections. I hope that you receive enough encouragement and listener support to enable you to continue your present format.

Thank you for providing pleasurable listening, particularly during commuting hours, where it is needed badly.

Yours truly,

*Henry W. Van Duren*

Henry W. VanDuren

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FRANK R. ALLESSI

1558 Blvd. Lorraine S.W.  
Atlanta, Ga.

October 18, 1968

Dear Mr. Gray:

The other day after getting into the car and driving off I turned on the radio to WGXA, as usual, to check and see if by chance they were playing some decent music. Usually, I am forced to change to another station, most of the time to WSB.

After a while I noticed that I stayed on WGXA enjoying the music. It wasn't long then, that I realized something had happened. Yes, the station had changed ownership, at last.

Perhaps I will be the only one complaining on the old format but I for one, who enjoys most good music and delighted of the change and I believe this new format will please more people. I was so tired of that old mess, the music by the "Baroque", the chamber music, "I Musici", the heavy orchestration and the infernal violin concertos, or 2 in the late afternoons, contemporary jazz and all that baloney that went with it that it certainly is a beautiful change.

As for you, Mr. Gray, I advise you to fix your car radio and come down to earth. I admit as you have commented, it is enjoyable to hear some arias by Maria Callas and others, and I do miss the opera selections, but this is a small price to pay in order to be able to have some relaxing music as you drive. Oh, you say, why not turn to some other station? Yes, as I have stated, many times I did, to WSB, the next best choice... to a point. It's sad to realize that a supposedly mature station as WSB with its good news program, its impromptu reporting such as Pauline Frederick from the UN, or Dr. Brothers, etc, etc., that when it comes to music, it's just one step higher than the lowest nerve wrecking noise one hears from any other station in Atlanta. What kind of audience are they trying to attract?

I think it's a good policy for WGXA to stick to the higher class of music for FM, where it can be enjoyed at home, at more leisure. There is a time and place for everything, and heavy classical music is not for the travelling public, my friend. If it were, old WGXA would still be in business.

Here's wishing success to our new friends.

COPY

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Sincerely,

Frank R. Alessi

BEST COPY  
from the original

1044 Nielsen Drive  
Clarkston, Georgia 30021  
March 18, 1969

WGKA Radio (F.M.)

Atlanta, Georgia

Gentlemen -

Just a note to say thanks for  
your very nice radio station. After  
searching the FM band desperately it  
is nice to find a station who feels their  
listeners mean fine music -

However, I do wish gentle jazz was  
either more gentle or on at a different time -  
That is a particular time when pretty  
music would be most enjoyable -

Very truly yours -

Wesley Morris Harrell





## APD automatic transmission parts

*The Complete Coverage Line*

158 GARNETT ST., S. W.

ATLANTA, GA. 30303

MURRAY 8-1514

November 15, 1968

WOKA  
230 Peachtree St.,  
Atlanta, Ga.

Gentlemen:

I would like you to know that my family of 6 and I are enjoying your new format and listen to your station far more than previously.

We would like to see you continue this type of music and wish you every success. We have recommended your station to our friends and received favorable comments in every instance.

Yours truly,

*Morris Rabif*  
Morris Rabif, Pres.

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BEST COPY  
from the original

Item 35

March 19, 1969

Mr. Ben F. Waple, Secretary  
Federal Communications Commission  
Washington, D. C. 20554

Re: 2430

Dear Mr. Waple:

As you are aware, the Commission, by its letter of March 4, 1969 to Strauss Broadcasting Company of Atlanta, requested Strauss Broadcasting Company to conduct a more comprehensive survey of the broadcasting interests and needs of the Atlanta community "taking into consideration the program service already available" and the contention of the citizens Committee as they relate to a "loss of a classical music format."

The Citizens Committee has petitioned the Commission for reconsideration of its previous decision approving the transfer of the station as well as the proposed programming change, and requested a public hearing. The Citizens Committee has maintained throughout this adversary proceeding that in obtaining FCC approval, Strauss Broadcasting Company has made misrepresentations to the press, to the public, to its advertisers, as well as to the Commission itself. The Citizens Committee has further contended that the surveys of Strauss Broadcasting Company have been inaccurate, invalid and incomplete; but most important of all, petitioner has urged that even if more people in Atlanta prefer the type of music Strauss Broadcasting Company proposes, several already existing stations more than adequately serve these needs; and the substantial, although minority, interest in a full time classical music format is sufficient enough that the loss of the only such format serving the needs throughout the metropolitan Atlanta area cannot serve this public's interest.

This recent request for ex parte supplementation of the record

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March 19, 1969

In this hotly contested adversary proceeding raises several questions therefore, which the Citizens Committee hereby requests answers to

I. Will Strauss Broadcasting Company of Atlanta be required to serve a copy of the requested survey and information upon petitioner?

II. Will Petitioner be allowed time within which to test the accuracy and validity of said information and file a response thereto?

In the event Strauss Broadcasting Company does file a survey which appears to support its contentions, petitioner has three additional questions.

1. Will the Citizens Committee be allowed to file subsequent information to demonstrate that the programming proposals of Strauss Broadcasting Company of Atlanta add nothing new since these needs are already being more than adequately furnished by other stations in the Atlanta community?

2. Will the Citizens Committee be allowed to file subsequent information to demonstrate that the programming it supports will best serve the tastes, needs and interests of the Atlanta community?

3. Will the Citizens Committee be allowed to file subsequent information demonstrating that there is a need and interest of the Atlanta community for a full time classical music format and that said need and interest is not now being served?

Petitioner respectfully requests answers to these questions at the soonest possible date so that it can begin whatever preparation is necessary with as little inconvenience to the Commission as possible.

Very truly yours,

Henry Angel  
Attorney for Petitioner

cc: Chairman Rosal E. Hyde  
Commissioner Robert T. Bartley  
Commissioner Robert E. Lee  
Commissioner Kenneth A. Cox  
Commissioner James J. Wedgworth  
Commissioner Nicholas Johnson  
Commissioner B. Rex Lee

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BEST COPY  
from the original

Mr. Ben F. Waple

Page 3

March 19, 1969

cc: Chief, Broadcast Bureau - Robert J. Rawson

Mr. Reed Miller, Esq.  
Arnold & Porter  
1229 19th Street, N.W.  
Washington, D. C. 20036

bc: Mr. Drew Tidwell

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FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

MAY 13 1969

IN REPLY REFER TO:  
8430  
3-222

AIR MAIL

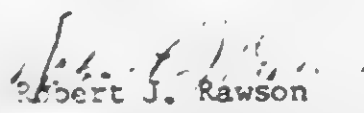
Henry Angel, Attorney  
Woodruff, Savell, Lane & Williams  
Attorneys at Law  
707 Healey Building  
Atlanta, Georgia 30303

Dear Mr. Angel:

On April 30, 1969, Strauss Broadcasting Company of Atlanta (WGKA and WGKA-FM) filed certain material in response to the Commission's letter of March -, 1969. We note that a copy of this material was transmitted to you.

Pursuant to your letter of March 19, 1969, the Citizens Committee will have 30 days from April 30, 1969 to file any submission that it considers relevant to the question under consideration. A copy of your response should be directed to the attorney for Strauss Broadcasting Company. The Commission, of course, reserves the right to rule on the relevancy of all data so submitted.

Sincerely yours,

  
Robert J. Rawson  
Chief, Renewal and Transfer Division  
Broadcast Bureau

cc: Strauss Broadcasting Company  
Reed Miller, Esquire

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BEST COPY  
from the original

WOODRUFF, SAVELL, LANE & WILLIAMS

ATTORNEYS AT LAW

107 HEALEY BUILDING

ATLANTA, GEORGIA 30303

May 22, 1969

BRUCE F. WOODRUFF  
EDWARD L. SAVELL  
A. ED LANE  
JOHN M. WILLIAMS  
LAWSON A. COX  
RONALD L. DAVIS  
HENRY ANGEL

BRUCE F. WOODRUFF  
(1897-1965)  
404 521-282

Mr. Ben F. Waple  
Secretary, Federal Communications Commission  
Washington, D. C. 20554

In re: WGKA-AM and FM - 8430, 3-222

Dear Mr. Waple:

On March 5, 1969 I received a copy of a letter sent by direction of the Commission to Strauss Broadcasting Company of Atlanta, directed to a Dallas, Texas address, relative to the Citizens Committee's Petition for Reconsideration and its request for a public hearing in the above mentioned matter.

The March 4, 1969 letter pointed out that the Commission desired further information before reaching a final decision and, therefore, requested Strauss Broadcasting Company to:

(a) "undertake further efforts to ascertain, by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community."

and in doing so take:

(b) "into consideration the program services already available and the points raised in the aforementioned petition relating to loss of a classical music format." (Emphasis added)

On March 19, 1969, I wrote the Commission in an attempt to ascertain if the Citizens Committee would be given the opportunity to test the accuracy of any materials submitted by Strauss Broadcasting Company, and also attempting to discover whether the Citizens Committee would be granted the same opportunity to submit like information relative to the same issues in the event Strauss filed data which appears to support its contentions.

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COPY AVAILABLE

Original bound volume

Mr. Ben F. Waple  
Secretary, Federal Communications Commission

May 22, 1969

A 30-day grant of extension of time within which to file its survey was granted to Strauss. I have now received Strauss Broadcasting Company's unilateral response to this request. It consists of the following items:

1. A letter from Strauss Broadcasting Company's attorney, Reed Miller, Esq., to the Commission.
2. A letter from Robert S. Strauss, President of the company, to the Commission.
3. "Exhibit A" which is a letter from Mr. Jack Taylor, Executive Vice-President of Marketing and Research Counselors, Inc., hereinafter referred to as "MARC," addressed to Mr. Reed Miller and containing the results of a survey conducted by MARC at Strauss Broadcasting Company's insistence.
4. "Exhibit B," which consists of a letter from Mr. Wells Bruen of MARC to Mr. Reed Miller, along with 116 questionnaires filled out pursuant to a "selective" interview of community and business leaders, some made in person and some by telephone.
5. "Exhibit C," which is purportedly a Program Analysis of stations in the Atlanta area made by W. H. McCain, Manager of Radio Station WGKA-AM and FM, and an employee of Strauss.
6. "Exhibit D," which is a "compilation of unsolicited letters from viewers (sic) expressing appreciation of the type of music now broadcast on WGKA-AM and FM."

On May 15, 1969, I received a letter from the Commission which informed me that the Citizens Committee has 30 days from April 30, 1969 to submit a response.

The material submitted by Strauss in response to the Commission's request is self-serving in nature, inaccurate, invalid, and completely fails to constructively supply the Commission with the information it requested as an aid to reaching an ultimate decision in the public's interest. It does not even "appear" to support the contentions of Strauss Broadcasting Company.

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BEST COPY  
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Mr. Ben F. Waple  
Secretary, Federal Communications Commission

May 22, 1969

I. THE LETTER FROM REED MILLER

In his letter to the Commission Mr. Miller relates that Exhibit A "is the second survey of this nature submitted by Strauss . . . " It is submitted by Strauss as an attempt to comply with the Commission's request for a more complete survey.

A close look at Exhibit A, however, reveals that it is not in fact a second survey, but merely the same survey previously submitted to the Commission prior to its request for a more complete survey with but two changes.

First, the same questions were asked of 640 additional persons. Second, the 640 new persons surveyed were asked one additional question as to whether they would rather listen daily to Broadway show tunes such as Dr. Zhuvago, or Opera Symphonic pieces such as "Petrouchka."

Speaking of the first survey, Mr. Miller then relates that the addition of 640 subjects "reinforced that result." The Citizens Committee maintains that by adding 640 subjects and adding the new question, the invalidity of the original survey was not corrected or made more complete. But even more revealing is the fact that by adding 640 subjects, the prior results were not reinforced. In each category of music other than classical music, the addition of 640 subjects considerably reduced the percentage of subjects who liked to hear these types of music. (Compare page 4 of Exhibit A with the prior survey).

In the prior survey the percentage of persons who liked to hear Symphonic Music, Ballet Music and Opera was 15%, 8% and 6% respectively. After 640 subjects were added, page 4 of Exhibit A reveals these percentages to have increased to 18%, 11% and 9% respectively. The Citizens Committee's objections to the validity of this survey are already a part of this record. Nevertheless, there being a discrepancy in results of the same survey by the mere addition of only 640 subjects ranging from a 20% to a 50% increase in the classical music categories, in and of itself bespeaks of the invalidity of this type of survey.

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Mr. Miller then states that the Citizens Committee has claimed that there is a "numerically superior demand" in Atlanta for classical music. The Citizens Committee has never made this claim. The Citizens Committee has merely throughout this proceeding maintained that, even if only 16% of the Atlanta public prefers full time classical music, the interest in the Atlanta community is sufficient that it was not in the public interest to eradicate the only full time classical music radio station serving the entire community and substitute therefor a popular music station since the popular music lovers, even if in a vast majority, were already receiving more than adequate service from other existing sources.

In commenting on Exhibit B, Mr. Miller notes that Exhibit B consists of 116 interviews with "selected" community leaders and businessmen. Not being a random sampling, therefore, Exhibit B is of no significance, and Petitioner hereby maintains that it could take the same questionnaire to 116 "selected" community leaders and businessmen and achieve far different results.

In referring to Exhibit C, Mr. Miller, in order to distinguish Strauss' program from those already existing, must state that no other Atlanta area station supplies the same "music mix" that Strauss does. The Citizens Committee maintains that the interests served by Strauss Broadcasting Company are duplicated by the Stations in the Atlanta area and more than adequately served absent Strauss' present programming. The reference to a unique "music mix" is no more than a distinction without a difference. Furthermore, it is irrelevant and immaterial to the issues presently before the Commission since it fails to relate to the loss of a classical music format, the needs of the community, or the manner in which the change of format was obtained by Strauss.

Mr. Miller describes Exhibit D as a "compilation of unsolicited letters from viewers (sic) expressing appreciation of the type of music now broadcast on WGKA-AM and FM." Petitioner merely asks why Strauss did not also furnish the Commission with

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a compilation of the unsolicited letters which did not express appreciation. Petitioner can affirmatively state that such letters were received by Strauss Broadcasting Company, as in several instances, copies of letters sent to the station were simultaneously sent to the Committee, and in some instances the Commission itself. Petitioner would further maintain that letters received by the station protesting the program change would exceed the number expressing appreciation and is prepared to present such evidence at a hearing.

Finally, Mr. Miller requests the Commission to take "official notice of the coverage of the Atlanta area by Station WOMN." Petitioner hereby respectfully requests the Commission to take official notice of the coverage of the Atlanta area by Stations WGKA-AM and FM on file with the Commission and compare the areas effectively served by these stations, including the broadcast times of the stations. The Commission will no doubt note that WOMN, broadcasting only on AM and only until sundown with a weak frequency, only effectively reaching a small portion of the Atlanta area, provides only a minute portion of the area and time coverage supplied by WGKA-AM and FM, which not only serves the Atlanta area but reaches a significant portion of the State of Georgia and even parts of Alabama, Tennessee and South Carolina. In addition, WOMN being only an AM station, it does not serve any FM listeners.

Mr. Miller then relates that even though WOMN does not broadcast in the evenings, WGKA-FM does, and thus the evening needs are served. However, Strauss has in the past, (refer to previous pleadings and evidence submitted by Petitioner) represented to the public and to the Commission that the FM station would remain full time classical music. Strauss has since broken this word. If the Commission denies the relief Petitioner herein seeks, what assurance does Petitioner have that Strauss would not then, as it has in the past, terminate these few evening hours of classical music format on the FM station? Furthermore, this evening FM broadcast does not serve the evening needs of AM radio listeners. Petitioner regards this meager unilateral hint at compromise programming as an irrelevant and frivolous attempt to avoid the real issues in the case and again avoid an assurance that the public's interest will be served.

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In summary, Mr. Miller's letter is a self-serving interpretation of materials submitted by his client, is lacking in factual substance, and is, therefore, of no probative value.

## II. THE LETTER FROM ROBERT S. STRAUSS

The important aspect of Mr. Strauss' letter is that it closes with the following:

"The attached exhibits were prepared at the request and under the direction of Strauss Broadcasting Company of Atlanta. . . ."

The Citizens Committee has directly placed in issue in this matter, among other things, the question of whether or not the programming of Strauss Broadcasting Company, at the expense of losing a full time classical music station, is in the public's interest. This factual issue having been joined by adverse parties, the submission of unilateral evidence prepared at the request and under the direction of one of the adverse parties, should not be sufficient to support its factual contentions, especially when such evidence is, on its face, irrelevant, immaterial, and self-serving.

The documents submitted by Strauss which were prepared under its direction are obviously tainted with bias and prejudice. See the "Program Analysis" prepared by the Company's manager and also note the fact that only favorable letters from listeners were included.

## III. EXHIBIT A.

In his letter to Mr. Reed Miller, the Executive Vice-President of MARC, a Dallas, Texas corporation, indicates that the 2000 people who signed letters or petitions in favor of classical music broadcasting represent only a maximum of .34% or 1.1% of the households in the Atlanta area. Strauss would then have the Commission believe that, a fortiori, only .34% or 1.1% of the people or households in the Atlanta area favor the retention of a classical music format. See the letter of Reed Miller, page 3.

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The fallacy of this thinking is obvious, but nevertheless, typical of this type of "Marketing Research." Can Petitioner argue that since only 31 persons wrote letters favorable to the new WGKA format, the number of people who prefer popular music represents almost zero per cent?

Furthermore, the entire tenor of Mr. Taylor's letter indicates that MARC was hired by Strauss for the purpose of substantiating Strauss' position in this particular proceeding. The reliability of such a study is suspect on its face. Furthermore, it has never been explained why a so-called "impartial survey" directly relating to the loss of a classical music station does not ask its subjects a relevant and material question such as "Would the Atlanta public's interests be best served by WGKA-AM and FM broadcasting a popular or classical music format?" or: "Was the program change on WGKA-Am - FM from classical to popular music a change benefiting and serving the public's interest?"

In summary, Exhibit A is nothing more than a musical preference survey. Since it fails to take into consideration the program services already available in the Atlanta area, fails to relate to the issue of a loss of a classical music format, and also fails to relate even remotely to the programming of WGKA, it is irrelevant and immaterial to the issues herein involved, and fails to respond to the Commission's request.

#### IV. EXHIBIT B.

Exhibit B consists of 116 Questionnaires representing the results of interviews with so-called "community leaders" and "businessmen" in the Atlanta area. Each interview consists of four (4) questions, even though at the top of each page it states that the interviewers sought answers to five (5) questions. Question 1 is unrelated to the issues herein involved. Question 2 asks each interviewee which radio stations he listens to regularly. Question 3 asks if there is any type of music currently played by Atlanta radio stations that could be better presented. Question 4 asks whether the interviewee would prefer to listen daily to popular standards such as "Dr. Zhuvago" or classical music such as "Petrouchka."



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Each questionnaire is numbered. Those numbered 001-052 were made in person. Those numbered 101-164 were made by telephone. Petitioner relates to the Commission that it did not receive three of the questionnaires, those numbered 019, 021 and 100. Nevertheless, these interviews could not possibly constitute valid support for Strauss' proposed programming. Questions 1 and 3 fail to relate to the position Strauss maintains. Question 4 relates to the individual preference of 116 selected persons and fails to relate to the public's interest relating to a loss of a full time classical music station which is the issue herein raised.

As an example, it should be noted that some of those persons interviewed who preferred popular music and so indicated by circling the (a) portion of Question 4 in answer to Question 3, stated that Atlanta needed more classical music. See interviews 109, 013, 033 and 159.

Petitioner has studied the 113 questionnaires, and has had the opportunity to contact some of the individuals so interviewed, as well as some of the persons who conducted the interviews locally. Petitioner maintains that at a hearing it shall demonstrate to the Commission the invalidity of this survey and also demonstrate that in some instances the results indicated on the questionnaires submitted do not reflect what the interviewees actually stated. Petitioner stands ready, willing and able to demonstrate how the list of interviewees was selected, and can demonstrate that many of those who answered the questionnaires in a manner favorable to Strauss, would testify that the best public interest would be served by a full time classical format on WGKA, even though they prefer popular music. This clearly demonstrates the failure of the Strauss survey to direct itself to the issues involved in this proceeding.

Nevertheless, it should be noted that among the many papers and letters submitted by Strauss, not one attempted to evaluate the results of Exhibit B. Petitioner has done this and now wishes to discuss the results of Exhibit B. For these purposes,

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petitioner assumes that Exhibit B is a valid and accurate survey, without admitting this to be the case.

In evaluating the 113 questionnaires Petitioner received, they were divided into 3 groups based upon the answers to Question 4.

78 of the 113 said they preferred the type of music mentioned in (a) hereinafter referred to as popular music.

20 of the 113 said they preferred the type of music mentioned in (b), hereinafter referred as classical music.

15 of the 113 said they either liked both (a) and (b) equally or preferred neither (a) nor (b).

Strauss then concludes that 78 of the 116 interviewed preferred the present format of WGKA to a full time classical music format.

Strauss claims, as it has throughout this matter, that WGKA now broadcasts a format not presented by any other station in Atlanta and that its new format thus serves a vast majority of the Atlanta public's interest. The fallacy in this thinking is dramatically revealed in the answers to Question 2 of Exhibit B. If Strauss' claim is correct, then those persons interviewed in Exhibit B would have indicated that they listened to WGKA since this would be the only outlet for their programming preference for this type of popular music.

Question 2 of Exhibit B is the only portion of all the materials submitted by Strauss which relates to the program services already available in the Atlanta area by relation to the consumer or listener directly.

Question 2 asks each interviewee what radio stations he or she listens to regularly.

Realizing that those interviewed gave multiple answers to Question 2, the results follow:



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Of the 78 persons who stated they preferred to listen to popular music daily:

- 56 listened regularly to WSB.
- 17 listened regularly to WGST.
- 11 listened regularly to WQXI.
- 10 listened regularly to WPLO.
- 7 listened regularly to WIIN.
- 6 listened regularly to WSB-FM.
- 6 listened regularly to WGKA.
- 5 listened regularly to WQXI-FM.
- 5 listened regularly to WRNQ.
- 2 listened regularly to WKLS.
- 1 each listened to WACK, WAVO, WKLS-FM, CHAN, WBT.

Thus, by its own survey, Strauss proved beyond question that the programming it proposes, and the public interest it attempts to serve, are more than adequately served by other stations in the Atlanta area, especially since only 6 of the 78 indicated they listened to WGKA. It should further be noted that a far greater percentage of those who preferred classical music listened to WGKA than did those who preferred popular music. This is no doubt due to the classical music played a few hours in the evenings.

Also of interest is the fact that only 4 of the 20 classical music lovers listened to WOMN which gives rise to the inference that 16 of the 20 classical music lovers could not receive WOMN's signal.

Of those who preferred neither or both classical and popular music, none listened to WGKA.

As a result, of the 113 persons whose interviews were submitted by Strauss to show their preference for its programming and to show its programming was within the public's interest, only 9 listened to WGKA-AM, 3 of which listened for classical music purposes, and 2 listened to WGKA-FM. All of the others found their popular music radio desires adequately served by other radio stations in the Atlanta area. Of the 20 persons who

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preferred to listen to classical music daily, only 4 had a quasi-full time outlet for their desires. What could be more convincing?

Therefore, if one assumes Exhibit B is valid and accurate, it supports Petitioner's position rather than that of Strauss.

V. EXHIBIT C.

The inadequacies of Exhibit C are self-evident. It was prepared by an agent of Strauss. Petitioner maintains that it fails to include some radio stations which serve Atlanta (WBIE, WYZE, WYNX, WSSA, WACK, WABE-FM, WREK-FM, WAVO-FM, WLTA-FM, WBIE-FM), including some which duplicate its programming on the AM and FM band. Furthermore, the description of the programming of those stations which are virtually identical to WGKA's programming are unfairly and inaccurately represented. Petitioner maintains that at a public hearing it can accurately present the program situation in Atlanta and clearly demonstrate that the present programming of WGKA-AM and FM is more than adequately served by other stations. In direct rebuttal to Exhibit C, however, the Commission's attention is directed to the analysis set forth above of Exhibit B.

The bias of the individual who conducted this survey is readily observed by noting the time and space devoted to a description of WGKA-AM and FM, as opposed to the time and space devoted to the other stations surveyed as well as by noting the extreme effort to distinguish WGKA's programming by referral to more "contests," more "vocal" or "instrumental" music, "no record identification," and by the choice of which "music titles" were selected. After perusing this "program analysis" one would believe that no station in the Atlanta area ever played any of the songs played on WGKA, and if they did it would be an instrumental more often than a vocal, be preceded by a sports broadcast or a contest, and at any rate the artist and label would not be identified and thus be either "heterogeneous" or an "amalgam," all of which would not serve the public's interest.

In short, Petitioner maintains that a red apple remains a red apple whether referred to as a popular or a standard red

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apple, and that Exhibit C is but a meager attempt to change its color by means of a self-serving, inaccurate and unfair analysis.

VI. EXHIBIT D.

It should first be noted that WGKA-FM did not change from all classical to a popular music station until November 10, 1968. Some of the letters in Exhibit D which Strauss has submitted preceded that date and specifically refer to the FM station. What is even worse, but typical of the manner in which Strauss Broadcasting Company has conducted itself upon moving into Atlanta, is the submission of the letter in its behalf from the Rev. and Mrs. Jack M. Beaver which reads:

"Sirs:

"We have just discovered WGKA after looking sometime for a good FM station. By chance do you publish a program schedule or does any of the Atlanta papers?

"We enjoy the good music!"

This letter was dated October 19, 1968, a month prior to the change in the programming. (This directly shows why Mr. Carre of Oriental Bazaar wanted his letter of commendation returned. I wish to report that as of this date it has not yet been returned. (See Petitioner's Second Amendment). Included among the letters in Exhibit D are letters dated 9/5/68, Oct. 19, 1968, 5 Nov. 1968, 21 October 1968, and October 21, 1968.

The letter dated Nov. 24, 1968 expresses appreciation for the Opera House program, a classical music program. Others also were written to praise the classical music still being broadcast. Some of the letters or notes are not even dated.

In addition, some of the letters come from towns and cities a good distance away from Atlanta and clearly demonstrate that WGKA reaches a vast listening public far beyond the area reached

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by WOMN which Strauss claims has fulfilled the classical music needs in the area previously so served by WGKA. Note letters from East Point, Georgia, Buford, Georgia, Compton, Georgia, Rabun Gap, Georgia, Monroe, Georgia, College Park, Georgia, Collegedale, Tennessee, and Clarkston, Georgia. If the Commission will refer to the some 2000 letters from listeners already on file it will note the vast geographical area served by WGKA and not served by WOMN.

Petitioner notes that there are two issues before the Commission in this matter:

1. Whether the change of programming on WGKA-AM and FM, at the expense of losing full time classical music programming in the entire Atlanta community, served the public's interest.

and

2. Whether Strauss Broadcasting Company of Atlanta obtained the Commission's approval of the transfer and program change by improper deception.

Petitioner has placed both of these ultimate facts in issue and has submitted evidence in support thereof. Petitioner has further requested a public hearing.

In support of its contentions Petitioner has done the following:

- (1) Noted that in obtaining Commission approval Strauss did no more than submit 13 summaries of interviews with selected community leaders;

- (2) Noted that at the time approval was obtained, WGKA-AM and FM was Atlanta's only classical music station;

- (3) Noted that at that same time approximately 2,181 Atlantans spontaneously expressed to the Commission that loss of the classical music format did not serve the public's interest;

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(4) Submitted affidavits under oath from some of the 13 community leaders Strauss stated felt the change in program was within the public's interest clearly demonstrating that Strauss had misrepresented the statements of these individuals to the Commission and that they indeed felt retention of the classical music format was important:

(5) Demonstrated by press releases and reported interviews that Strauss Broadcasting Company told the Atlanta public the FM format would remain full time classical music in an attempt to stop the public from opposing its application:

(6) Submitted documentary evidence and affidavit under oath of a WGKA advertiser who was known to advertise only on full time classical music programming who was deceived by an agent of Strauss, in an attempt to secure advertising, as to the nature of the station's classical music programming:

(7) Demonstrated that popular music programming is adequately served by already existing radio formats while the classical music needs are not so served. These facts are documented by Strauss' own surveys as well as by the public response already documented and on file.

Petitioner now maintains that if the Commission finds that no material issue of fact exists, the previous decision of the Commission should be vacated and reversed instantler since Petitioner has already laid before the Commission sufficient facts to support its factual allegations.

If, on the other hand, the Commission is of the opinion that Petitioner's evidence is not of that magnitude or is sufficiently rebutted by evidence submitted in behalf of Strauss, then clearly important factual issues exist and have been joined and Petitioner relates that it is prepared to present its position with full and more complete documentation relating to both issues at a public hearing which is required when a substantial and material question of fact is directly in issue.



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In conclusion, Petitioner wishes to restate its position that in a community the size of Atlanta, the public airways should offer enough variety to please all segments of the public's musical interests. There is a sufficient interest in a full time classical music radio station, AM and FM, that the loss of the only such station serving these needs for the entire community presents a sufficiently serious question of public interest to warrant at least a public hearing. This is especially so in view of the misconduct of the present owners of WGKA as previously related in Petitioner's pleadings as well as demonstrated in Strauss' most recent submissions.

Atlanta has now been without total coverage full time classical music broadcasting for over six (6) months. Petitioner filed its Petition for Reconsideration and request for a public hearing eight (8) months ago. A great many Atlantans have been hanging for a good while upon this petition as their only life line of hope. For this reason Petitioner respectfully requests that its Petition be granted and the Commission set aside its decision approving the transfer and program change of WGKA-AM and FM and restore to the airways a full time classical music format instantler, or in the alternative, conduct a public hearing in Atlanta at the soonest possible date.

Petitioner represents to the Commission that no further pleadings or communications are required or authorized in this matter; that the matter is ripe for decision; and that Petitioner is entitled to the relief it prays for.

Petitioner further requests that, since this matter is of such importance, it be decided by the Commission en banc with all Commissioners participating.

Respectfully submitted,

WOODRUFF, SAVELL, LANE & WILLIAMS

By \_\_\_\_\_  
Henry Angel  
Attorney for Petitioner

HA:S

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CC: CHAIRMAN, Rosel H. Hyde  
CC: Commissioner Robert T. Bartley  
CC: Commissioner Robert E. Lee  
CC: Commissioner Kenneth A. Cox  
CC: Commissioner James J. Wadsworth  
CC: Commissioner Nicholas Johnson  
CC: Commissioner H. Rex Lee  
CC: Chief, Broadcast Bureau, Robert J. Rawson  
Washington, D. C. 20554  
CC: Mr. Reed Miller, Esq.  
Arnold & Porter  
1229 - 19th Street, N. W.  
Washington, D. C. 20036

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item 38

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

CC 65-576  
34926

In re Application of )  
 )  
BARTON C. ISBELL, JR., ET AL, )  
All Stockholders of )  
Glenkaren Associates, Inc. )  
(TRANSFERORS) )

and )

FILE NO. BTC-5520

The Partnership Composed of )  
Strauss Broadcasting Company )  
and Jere W. Thompson )  
d/b as Strauss Broadcasting )  
Company of Atlanta )  
(TRANSFeree) )

For Transfer of Control of 100% of the )  
stock of Glenkaren Associates, Inc. )  
Licensee of WCKA and WCKA-FM )  
Atlanta, Georgia )

MEMORANDUM OPINION AND ORDER

Adopted August 13, 1969 ; Released August 25, 1969

By the Commission: Commissioners Bartley and H. Rex Lee not participating;  
Commissioner Cox dissenting and issuing a statement;  
Commissioner Johnson abstaining from voting.

1. We have before us: (a) Our decision contained in a Memorandum Opinion and Order, 14 Pike and Fischer RR 2d 104, released September 4, 1968 which granted the above application; (b) A Petition for Reconsideration filed on September 25, 1968 by the Citizens Committee to Preserve the Present Programming of WCKA and WCKA-FM; (c) Amendments to the Petition for Reconsideration filed on October 20 and December 9, 1968 and at least eight other pleadings, either in opposition or support of these pleadings; (d) Our letter of March 4, 1969 in which we requested that the transferee "undertake further efforts to ascertain, by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community, taking into consideration the program services already available...." and responses thereto.

2. This case has now had a prolonged history and in order to understand the contentions of the parties, a review of what has transpired is necessary. The above entitled application to transfer control of the

licenses of Stations WGKA and WGKA-FM, Atlanta, Georgia was filed on March 5, 1968. Thereafter, an Atlanta newspaper columnist discussed the proposed transfer in his columns and strongly criticized the transferee's proposed change in program entertainment format from one of classical music to one described as a "...pleasant blending of popular favorites, Broadway hits, musical standards and light classics...." Interested readers were advised to write to the Chairman of this Commission. About 1150 letters and an informal petition with approximately 1,021 names protesting the proposed change in format were received by the Commission. We carefully reviewed all aspects of the transfer application and granted the application by Memorandum Opinion and Order issued on September 4, 1968, 14 Pike and Fischer RR 2d 104, which stated in part:

"In our review of the over-all programming proposal presented by the transferee we considered carefully the concern expressed in the many informal complaints. We can appreciate that concern. However, the transferee has established through surveys and other methods that its proposal would serve the needs and interests of the people in the Atlanta market and the new specialized programming specifically serves the public interest. That being the case, the matter is one for judgment of the broadcaster and the Commission, in these instances, cannot properly insist that the prior format must be retained.

For these reasons and because it is our judgment that the programming proposed accords with the public interest, we believe the informal objections to the transferee's proposal raises no substantial question which requires hearing."

3. Thereafter on September 25, 1968, the Petitioners filed a Petition for Reconsideration. The Petitioner identified itself as follows:

"...although this Citizen's Committee has a much broader membership, it includes all those individuals (approximately 2,131 individuals) who wrote letters and/or signed informal petitions which were submitted to the FCC opposing the format change of WGKA."

4. The gravamen of the Petition as it was of the informal complaints filed with the Commission prior to the grant was that somehow WGKA's change in program format was improper and urged the Commission to compel Stations WGKA and WGKA-FM to maintain the prior entertainment program format-classical music. In that regard, there was a challenge to the adequacy of the transferee's response to Part I of Section IV of the application entitled "Ascertainment of Community Needs."

5. Although it is clear that in the main the Petition now before us merely re-iterates the arguments and contentions that were previously presented to us, on March 4, 1969, we addressed a letter to the transferee, with a copy to all interested parties and stated in part:

"Specifically, it is requested that you undertake further efforts to ascertain by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community, taking into consideration the program services already available and the points raised in the aforementioned petition relating to loss of a classical music format."

6. The transferee filed the results of its survey taken by Marketing and Research Counselors Inc. (M A R C).<sup>1/</sup> A number of questions were asked of the interviewees. Question No. 5 was:

"Which of these two formats would you prefer to listen to daily?

- a. A blend of Broadway Show tunes like "Mame" and "Cabaret", movie themes like "Dr. Zhivago" or "Born Free" and standards like "Moonglow" and "Stardust" plus hourly newscasts.
- b. A blend of Opera Symphonic pieces like "The Emperor Concerto" or "The New World Symphony" and Ballets such as "Petrouchka" and "Swan Lake" plus news approximately every hour."

Out of 640 people asked, 73% preferred the present WGKA format; 16% preferred b; 9% neither/none and 4% gave no reply. In other words it was determined by "random sampling techniques that 73% of all Atlantans would, if asked, vote in favor of the new Strauss format."

7. In further response to the Commission's directive, the transferee's study of the other major Atlanta area stations indicates that no other existing station is now supplying the "music mix" provided by Strauss. On May 29, 1969, the petitioner filed a response to the station's submission. Generally the petitioner quarrels with the station's showing. It appears to the Commission, however, that the petitioner's case stands or falls on this assertion of the petitioner:

"The Citizen's Committee has merely throughout this proceeding maintained that even if only 16% of the Atlanta public prefers full time classical music, the interest in the Atlanta community is sufficient

<sup>1/</sup> See paragraph 10, infra for identification of the organization.

that it was not in the public interest to eradicate the only full time classical music radio station serving the entire community and substitute therefor a popular music station since the popular music lovers, even if in a vast majority, were already receiving more than adequate service from other existing service."

8. The case here comes down to a choice of program formats -- a choice which in the circumstances is one for the judgment of the licensee. In view of WGKA's surveys and the other circumstances 2/, WGKA could reasonably conclude that its proposed "music mix", and particularly the "light classics" and "Broadway hits," would serve the public interest. So also WGKA could reasonably conclude that although apparently to a lesser degree, continuation of a classical music format would also serve the public interest. Here WGKA, again acting clearly within its discretion, has chosen a course which seeks to meet to a significant extent the needs reflected in its surveys. It determined to change from classical music to the proposed "music mix" noted above; it has also pledged to meet the needs and interests of the minority audience interested in classical music by presenting over WGKA-FM from 8:00 P.M. until 11:00 or 11:30 P.M. (depending on the length of the recording) classical music six days a week and on Sunday night starting at 8:00 P.M. a complete opera. Thus, WGKA asserts that "... it has recognized the desires of a minority group of listeners by providing all classical music on its FM station during evening hours . . . " and that "... if it determines after further dialogue with the public and with the Committee, and is otherwise satisfied that its obligations to bring a viable and worthwhile AM and FM service to its entire listening audience can be fulfilled by providing additional classical music on WGKA-FM, it will give serious consideration to additional changes in its format . . . " (p. 6 WGKA Reply to Opposition to Strike). It follows that WGKA will be supplying, to a substantial extent and during prime listening time, classical music on FM, although not on AM; 3/ and as to the latter facet, is the countervailing consideration that the AM and FM will not be duplicated, as was the case when the

2/ We note that according to the Petition no other station in Atlanta, Georgia devotes time to "light classics" or "Broadway hits". The transferee's study also showed that no other existing station is now supplying the "music mix" provided by Strauss.

3/ Station WOMN, licensed to Suburban Atlantic Radio, Decatur, Georgia broadcasts an all classical music format. The station is located 10 miles from Atlanta and a large portion of the City of Atlanta receives service from WOMN. Thus, in addition to the classical music still offered by Strauss over WGKA-FM, during the evening hours, a large portion of the Atlanta area now receives classical music over WOMN daytime. (WOMN operates on 1310 kc and is a 500 watt station daytime only.)

former owner was in control, thus now providing two wholly new music services to the public. Taking into account all the circumstances, we simply believe that it is within the licensee's reasonable judgment to determine to program his stations in the above manner. While public interest questions may, of course, arise in the use of a changed format, KORD, Inc., 21 RR 781, the program format of a station is not fixed or unchangeable. The fact that one station started with a classical music format does not mean that forever more it must continue with that format. Licensees are clearly entitled to make good faith reasonable judgments as to what program formats will best serve the needs and interests of the area served. And as one would expect, there is no "right" or "wrong" in situations like the present one. WGKA might have changed from a popular Broadway hits - light classical format to a classical format with a similar or, as indicated, an even greater number of listeners displeased by the change.

9. There are several other questions which were raised and on which we shall comment. One has to do with the number of people that the transferee interviewed in response to the survey requirements of the transfer application. In addition to the original responses, transferee also filed a listener survey conducted for it by Marketing and Research Counselors Inc. in October, 1968. That organization, according to the transferee is engaged in taking statistical surveys on a professional basis. The October survey was taken among over 380 adult listeners in the Atlanta area and demonstrated a strong preference for the present format of WGKA as opposed to the former all classical music format. Additionally, after the Commission's letter of March 4, 1969, that same professional survey organization conducted a further listener survey of 640 people with the findings as previously stated. The same research organization conducted still a further survey of 116 community leaders in Atlanta and surrounding communities. We conclude that the assignee has adequately responded to the requirements of the application in all regards.

10. On October 21, 1968, the petitioner filed its first so called amendment to its Petition for Reconsideration in which for the first time it raised a charge of misrepresentation by the transferee in reporting the results of the survey interviews to the Commission. The petitioner alleged that it interviewed several of the community leaders "who were the subject of Strauss' survey" and attached affidavits from each of those interviewed. 4/ They include:

4/ The petitioner alleged: "It should be noted that the Sheriff of Fulton County passed away sometime in June, 1968 and an interview with him at this date would thus be impossible." In a letter to the Commission dated October 31, 1968, the petitioner stated: "Counsel was originally informed by what he believes to be a reliable source that T. Ralph Grimes, Fulton County Sheriff, passed away last June . . . Today I was surprised but happy to learn that this information was erroneous."



Dr. Paul West, Superintendent of Fulton County Schools  
(affidavit dated October 10, 1968)

Walter M. Mitchell, Fulton County Commissioner  
(affidavit dated October 17, 1968)

Rabbi Jacob M. Rothschild  
(affidavit dated October 16, 1968)

Frank L. Carter, Past President of the Atlanta Rotary Club  
(affidavit dated October 16, 1968)

Robert J. Watson, Past President of the Civitan Club  
(affidavit dated October 17, 1968)

It is alleged that each related "an entirely different account of their interview than that related by Strauss to the Commission"; that each ~~asserted~~ that the retention of WGKA's classical music format is vital to the public interest and that the proposed change is not in such interest.

11. Thereafter, on November 1, 1968, the transferee filed a Motion to Strike in which it avered in part:

"Upon reading these affidavits, it seemed clear to Strauss and particularly to Mr. Dan Hayslett, its Executive Vice President who interviewed these leaders . . . that the affiants must not have been made fully aware of the contents and purposes of the summaries of Mr. Hayslett's interviews . . . accordingly between October 23 and October 25, 1968, Mr. Hayslett attempted to revisit each of the 13 leaders previously interviewed . . . one, Sheriff Ralph Grimes is now deceased. 5/ Another Police Chief Herbert Jenkins was on vacation. A third Dr. Paul West, Fulton County Superintendent of Schools, refused to discuss the matter with Mr. Hayslett."

12. The transferee attached letters from each community leader re-interviewed.

5/ Apparently in reliance on the erroneous information contained in petitioner's sworn pleading of October 21, 1968. See Footnote 4.

The attached letters are fully consistent with the transferee's original report of the survey contained in the application. We find no misrepresentations to the Commission, and specifically we conclude that no substantial and material questions of fact have been presented to us as being unresolved which require a public hearing. See Section 309 of the Communications Act.

13. Finally, in a pleading filed December 9, 1966, entitled "Request for Leave to File a Second Amendment to the Committee's Petition for Reconsideration and for a Public Hearing" petitioner contended that a WGKA salesman misrepresented the program format for WGKA-TV to an advertiser. Whether the salesman did or did not make such statements at most is a matter to be resolved by the local courts in Atlanta, Georgia. There is no allegation that the applicant or its employees misrepresented any facts to the Commission.

14. The review of our previous action and all of the pleadings herein convinces us that our action granting the above application was in the public interest. We see nothing in the aforementioned pleadings to change our view. Therefore, IT IS ORDERED that our grant of the above-mentioned application is hereby AFFIRMED and the "Petition for Reconsideration" filed by the Citizens Committee to Preserve the Present Programming of WGKA and WGKA-FM and all auxiliary requests thereunder are hereby DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Ben F. Waple  
Secretary

3/11



I dissent. While it is no doubt true that more people in Atlanta -- as in most communities -- prefer popular to classical music, it does not follow that their needs should be served all the time by several stations and that no full time service should be available for those with classical tastes. Prior to the transfer of this station there seems to have been some sort of balance of service to the varying needs of the Atlanta audience. The metropolitan area has 20 aural facilities, and the filings in this matter indicate that at least popular standards, contemporary standards, standard pops, standard conservatives, and other services are available, and WGKA has provided classical music for ten years. Now that balance is destroyed. Instead of a full time AM-FM classical service, the community will now get classical music after 5 p.m. on WGKA-FM, plus some service from a 500 watt daytime only AM station on a high frequency in Decatur, Georgia, some ten miles from Atlanta.

I think this case illustrates a major fault of audience polls -- they can be designed to ratify pre-conceived conclusions. I think that the transferees bought the station with the specific intention of using it to present what they term "a pleasant blending of popular favorites, Broadway hits, musical standards and light classics," which is the format they have used profitably in Dallas and Tucson. They conducted no survey as to musical taste in Atlanta prior to filing their programming proposal. Instead, they interviewed a mere 13 community leaders -- in a community of nearly 600,000 -- and it appears to me from the summaries filed that these interviews were carefully designed to establish (1) whether the interviewee listened to the existing programming of WGKA, (2) whether he thought a middle-of-the-road service such as that proposed by Strauss would be broadly acceptable, (3) that five minute news casts would be adequate, and (4) that there was no need for sports or agricultural programming because other stations already provided such service.

Thus, when the transferees filed their program proposal they had no significant basis for concluding that their music format would serve the tastes, needs and interests of Atlanta other than their experience in two other markets demonstrating that such an operation would probably be profitable. They could have made such a determination without leaving Dallas -- and I expect they did.

Since the petition for reconsideration was filed, the transferees have had two surveys of musical tastes made in Atlanta. I am afraid that the results of these are also affected by the form of the questions asked. Even so, the second, and larger, of these studies indicated that 16% of the public -- which would be nearly 100,000 people in metropolitan Atlanta -- prefer classical music to the format proposed by Strauss. I do not think 16%

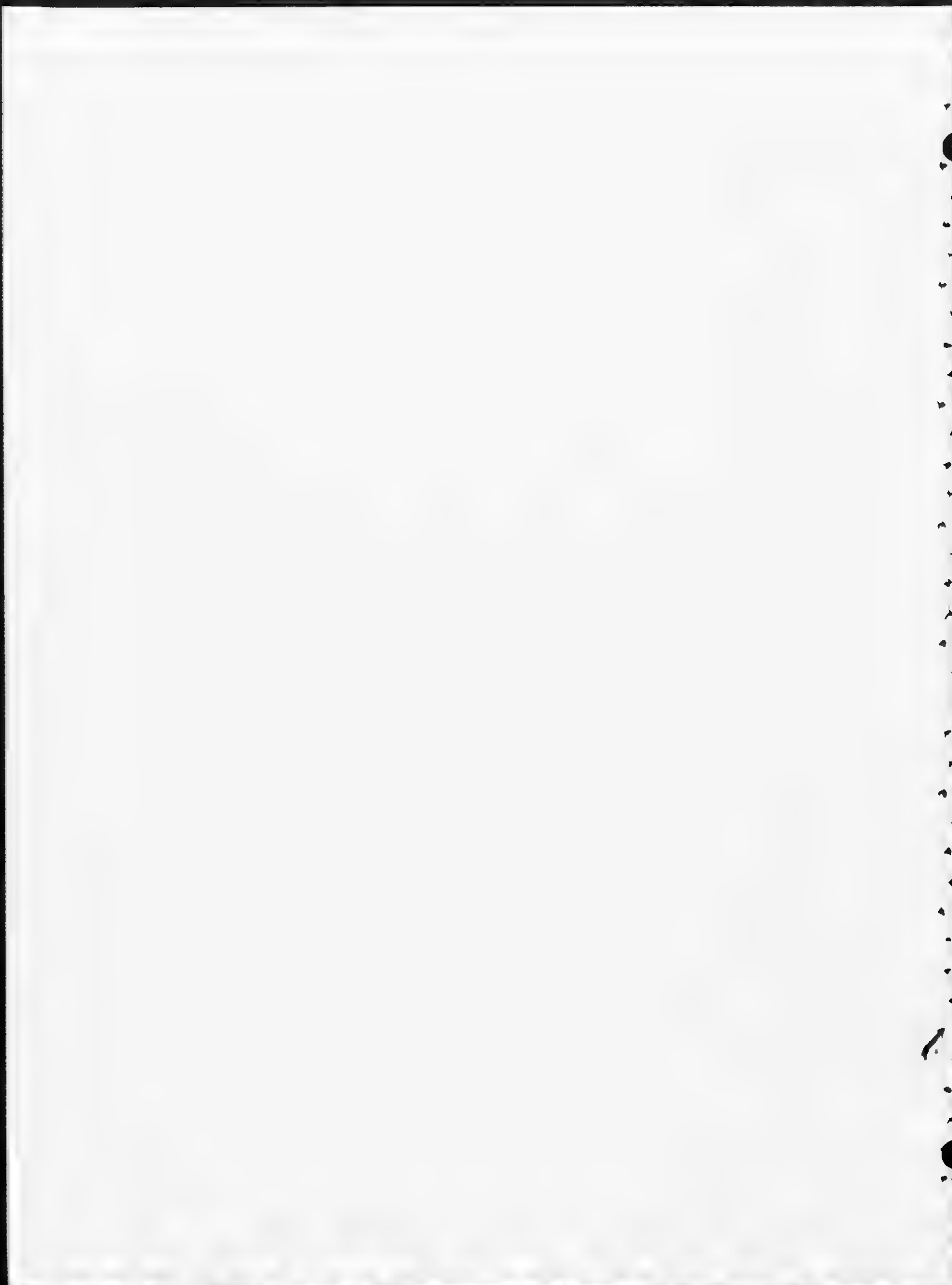
is an insignificant portion of the Atlanta audience, and these people are surely entitled to have their needs served by radio to a significant degree. Atlanta has 11 AM and 6 FM stations, so there is no dearth of facilities to provide diversified services for the varying interests of the public. Surely one sixth of the public is a large enough group to justify service from one or two of these seventeen facilities. But I am sure that Strauss's pollsters could have found that more people would prefer their format than would choose rock and roll, rhythm and blues, country and western, all talk, all news, or any other single alternative. The "logic" of the majority's position would seem to require the conclusion that every station in Atlanta would best serve the public interest by presenting the same musical mix Strauss is now offering over WCKA-AM and FM. What they really mean, however, is that a radio applicant can propose any kind of musical format he thinks will best serve his private interest if he can make some showing that a significant number of people will like what he wishes to offer. Thus the transferees' surveys would clearly have supported the opposite conclusion -- that they should continue classical programming -- if that were what they wanted to do.

I must agree that the issue posed here is a difficult one. In a single station market, I think we can properly require the licensee to provide some service to all major interest groups. In multi-station markets we recognize the need of licensees to specialize, and the advantages this offers to segments of the public who can turn regularly to particular stations for their favorite programming. But we have yet to devise an effective system for insuring that someone will specialize in each of the types of programming for which there is significant demand -- and all too often it is the lovers of classical music who end up without service. In Atlanta, however, they were fortunate. They had both WCKA-AM and FM to serve their needs. The stations were profitable, so it cannot be said that a change of format was necessary to keep them alive. But the transferees believe they can make more money with a popular format having broader appeal. They probably felt they could buy a classical station for less than they would have to pay for one more nearly serving the needs they now seek to program for -- where the refinements in format they have made would have been less disruptive to the listening audience. And presumably they offered the transferor more money than he could expect from someone else who would have been willing to continue the stations' classical programming. So the private interests of the transferor and the transferees have been served; only the interests of the one sixth of the public to whom classical music is the preferred service have suffered.

In the light of these facts, and the very substantial protest from the Atlanta audience 1/, I do not think we can find this transfer in the public

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1/ My colleagues of the majority are quick to note the absence of public outcry against their approving requests submitted by broadcast applicants, implying that if there were a problem the public would protest and then they would act. But when the public does register objection, it seems to me that my fellow Commissioners always manage to find this not very significant after all.



interest without exploring it on a hearing record. Short of that, I do not see how we can find that the transfer will serve the public interest.

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA  
CIRCUIT

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No. 23,515

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THE CITIZENS COMMITTEE TO PRESERVE THE  
PRESENT PROGRAMMING OF THE "VOICE OF THE  
ARTS IN ATLANTA ON WJLA-AM and FM,"

Appellant.

v.

FEDERAL COMMUNICATIONS COMMISSION,

Appellee.

and

STRAUSS BROADCASTING COMPANY OF ATLANTA,

Intervenor.

---

On Appeal from the Federal Communications Commission

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BRIEF OF THE APPELLANT

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### STATEMENT OF ISSUES

I. Whether the FCC erred in denying the Citizens Committee's request for a public hearing.

II. Whether administrative and/or constitutional due process was denied the Citizens Committee when the FCC requested the ex parte submission of evidence from Strauss upon the ultimate issue of fact without granting the Citizens Committee's request for an evidentiary hearing.

III. Whether, as a result of the FCC's failure to render a decision within ninety (90) days of the filing of the petition for reconsideration, as required by 47 U.S.C.A. §405, the FCC's order and decision released August 25, 1969, is void and the request of the Citizens Committee for an evidentiary hearing, therefore, stands granted or should be enforced by virtue of this violation of a Congressional mandate.

IV. Whether, as a matter of law, a license transfer applicant has the absolute right to select what program formats best serve the needs and interests of the public without

supervision by the FCC when a change in program format is sought and the listening public places the public needs and interests in issue and requests an opportunity to make a showing.

V. Whether there is sufficient evidence in the record, absent an evidentiary hearing, upon which the FCC could conclude that no misrepresentations were made.

VI. Whether misrepresentations of a broadcaster's employees to advertisers as to the station's program format, made for the purpose of inducing advertising, is misconduct which the FCC may consider in determining if a licensee applicant will serve the public's interests.

The pending case was not previously before this Court.

REFERENCES TO EXHIBITS

1. Memorandum Order and Opinion of the FCC, 14 Fike & Fischer R.R. 2d 104 (App. 30), September 4, 1968.
2. Memorandum Opinion and Order of the FCC, released August 25, 1969 (App. 313).

STATEMENT OF CASE

On or about March 5, 1968, Strauss Broadcasting Company, hereinafter referred to as Strauss, filed with the Federal Communications Commission, hereinafter referred to as the FCC, an application for the transfer of control of 100% of the stock of Glenkaren Associates, Inc., the then licensee of full-time classical music radio stations WGKA and WGKA-FM in Atlanta, Georgia, and included in said application that the programming for both the AM and FM stations would be changed from classical to a blend of popular standards. (App.1)

Shortly after public notice of the transfer was given, the FCC received approximately 1,150 letters and informal petitions from individuals in the Atlanta area and within the broadcast range of WGKA-AM and/or FM, protesting the proposed sale of the station. (R. Item 3) Many of the letters proclaimed that loss of the only full-time classical music programming in this metropolitan area and substituting in lieu thereof a blend of popular favorites and standards, an area already adequately served by other stations, would not serve the public's interest and requested that a public hearing be conducted.

On or about April 22, 1968, Strauss submitted

an Amendment to its application in an attempt to counter-act the vast public response in opposition to its application. (App. 15) In this amendment, Strauss claimed that the public response was caused solely by local Atlanta newspaper editorials and, therefore, constituted nothing more than a "vendetta" against Strauss by the owners of a competing station, WSB, Atlanta, since the publisher of the newspaper, claimed Strauss, owned more than one-third of the stock of Cox Broadcasting Corporation, the licensee of WSB, Atlanta.

In a further attempt to rebutt the vast community response, reported to be one of the largest in FCC history, Strauss on or about June 3, 1968, filed another amendment with the FCC and included as attachments thereto thirteen (13) reports of interviews with community leaders, which were submitted by Strauss to establish that these thirteen community representatives were of the opinion that the proposed program changes would best serve the public's interest. (App. 16)

On September 4, 1968, the FCC released its Memorandum Opinion and Order granting the aforementioned transfer application without conducting a public hearing. (App. 30, cited in 14 Pike & Fischer R.R. 2d 104). (The opinion was by a 3 to 1 vote of the participating Commissioners.)

On or about September 25, 1968, the Appellant, an organization composed of members of the listening public of WQKA who listened for classical music purposes, and hereinafter referred to as the Citizens Committee, filed with the FCC a formal Petition for Reconsideration. (App.35) In this petition, the Citizens Committee incorporated all of the informal letters and petitions mentioned above, requested a public hearing, and urged the FCC to stay the effectiveness of its September 4, 1968, decision pending a ruling on its Petition. The Citizens Committee urged that the thirteen (13) statements of interviews submitted by Strauss were not representative of the public, pointed out to the FCC that all of the available broadcast bands in the Atlanta area were already consumed, that only WQKA, of the some twenty (20) AM bands in Atlanta programmed full-time classical music, and contended that majority program preference is not the applicable "yardstick" to determine public interest in an area served by multiple stations.

Subsequent to the filing of its original petition, the Citizens Committee, after interviewing the thirteen community leaders interviewed by Strauss, concluded that Strauss had misrepresented the substance and result of said interviews to the FCC and, therefore, filed an amendment to its petition



and attached as exhibits thereto affidavits of some of the thirteen interviewees demonstrating that Strauss had acted improperly before the FCC in an attempt to obtain the FCC's approval of its application. (App. 76)

By November 10, 1968, Strauss had put into effect on WGRA-AM and FM the program changes applied for. (App. 168)

In the course of the various pleadings filed by the parties before the FCC, Strauss submitted as an exhibit to its "Motion to Strike Amendment to Petition for Reconsideration and for a Public Hearing," in addition to other exhibits, the results of a programming preference survey conducted, pursuant to Strauss' request, by Marketing and Research Counselors, Inc., a Dallas, Texas corporation, made from a statistical sampling of 382 randomly selected individuals in the Atlanta area selected from the Atlanta telephone directory and interviewed over the phone. (App. 137 et. seq.) The applicable results seemed to indicate that 40% preferred popular standards and 15% preferred symphonic music. (whatever that means).

On December 9, 1968, the Citizens Committee filed a Second Amendment to its petition which contained as an exhibit thereto an affidavit plus other evidence demonstrating that Strauss was misrepresenting the nature of its proposed



program changes to an advertiser for the purpose of inducing him to advertise on WGKA-AM and FM.

On March 4, 1969, the FCC wrote a letter to Strauss requesting that Strauss "undertake further efforts to ascertain, by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community..." and take "into consideration the program services already available and the points raised in the aforementioned petition relating to loss of a classical music format." (App. 241)

On March 19, 1969, counsel for the Citizens Committee wrote the FCC inquiring as to whether the Citizens Committee would be allowed to file any further submissions. (App. 293) On April 30, 1969, Strauss filed with the FCC its response to the March 4, 1969, request. (App. 242) Strauss' response consisted of:

1. A letter from Strauss' attorney to the FCC.
2. A letter from Robert S. Strauss, the company's president, to the FCC.
3. Exhibit A, a letter from the Vice-President of Marketing and Research Counselors, Inc., addressed to Strauss' attorney and referring to the results

of an additional survey which consisted of adding 640 subjects to the same survey mentioned above, plus the filling out of some 116 questionnaires. (It should be noted that the percentage of those who preferred symphonic music increased to 18%.)

4. Exhibit B, a letter from a Mr. Wells Bruen along with 116 questionnaires filled out pursuant to a "selective" interview of community and business leaders, some made in person and some by telephone.
5. Exhibit C, an alleged program analysis of stations in the Atlanta area made by W. H. McCain, Manager of Radio Station WGKA-AM and FM, and an employee of Strauss.
6. Exhibit D, a compilation of "unsolicited" letters from listeners expressing appreciation of the type of music now broadcast on WGKA-AM and FM. (It should be noted that some of these letters were written before the classical music programming was terminated and specifically refer to the classical music in commendation).

On May 13, 1969, the FCC wrote counsel for the

Citizens Committee informing him he could file anything he desired in response to the Strauss submissions by May 30, 1969. (App. 296)

On May 29, 1969, the Citizens Committee filed a letter with the FCC questioning the validity, accuracy, and value of the Strauss April 30, 1969 submissions. (App. 297)

On August 25, 1969, the FCC released its Memorandum Opinion and Order affirming its previous order and denying the Citizens Committee's Petition for Reconsideration, its Request for a Public Hearing, and its Request for a Stay of the Effectiveness of the Commission's prior order and decision. (App. 313) The decision was again 3-1, with Commissioner Cox issuing a dissenting statement, and Commissioners Bartley and H. Rex Lee not participating, and Commissioner Johnson abstaining. In its opinion, the FCC reached the following relevant findings: (a) "... we simply believe that it is within the licensee's reasonable judgment to determine to program his stations in the above manner.... Licensees are clearly entitled to make good faith reasonable judgments as to what program formats will best serve the needs and interests of the area served"; (b) "we find no misrepresentations to the Commission"; (c) "we conclude that no substantial and material questions of fact have been presented to us as being unresolved which require

a public hearing"; (d) Strauss' response to Part I of Section IV of the application entitled "Ascertainment of Community Needs" was adequate, and (e) with respect to the alleged misrepresentations to GKA advertisers, "whether the salesman did or did not make such statements at most is a matter to be resolved by the local courts in Atlanta, Georgia. There is no allegation that the applicant or its employees misrepresented any facts to the Commission."

It is from this order and decision that the Citizens Committee appeals herein.

ARGUMENT AND AUTHORITIES

I. THE FCC ERRED IN DENYING THE CITIZENS  
COMMITTEE'S REQUEST FOR A PUBLIC HEARING.

In pertinent part, 47 U.S.C.A. §309(e) states  
that:

"If, in the case of any application  
to which subsection (a) of this section  
applies, a substantial and material  
question of fact is presented or the  
Commission for any reason is unable to  
make the finding specified in such sub-  
section, it shall formally designate the  
application for hearing..."

The FCC cannot grant an application for transfer of  
control of a radio station, such as was applied for in the  
instant case, except "...upon finding by the Commission that  
the public interest, convenience, and necessity will be  
served thereby." 47 U.S.C.A. §310(b).

In the FCC's form for application for transfer  
of a radio station, there exists in Part I of Section IV a

requirement that the applicant establish that his program format will serve the community needs. Strauss, in the instant case, applied for transfer of radio stations WCKA-AM and FM, previously full-time classical music stations, and in its application indicated it would change the format from classical to popular music. In response to Part I of Section IV of the application for transfer, Strauss indicated that as a result of interviews one of its employees made of thirteen community leaders, it determined that its proposed popular music programming would best serve the public's needs and interests.

The Citizens Committee, after over two thousand area residents informally notified the FCC that the proposed transfer would not serve the public's interests, filed formal opposition to the above-mentioned application maintaining that the loss of the community's only classical music format in favor of another, among many, popular music format would not serve this public's interest and requested a hearing. In addition the Citizens Committee filed affidavits of several of the thirteen community leaders mentioned by Strauss in its application which recited that retention of a classical

format on WKA would best serve the public's interests and needs, therefore, seriously placing in issue the accuracy of the Strauss submissions as well as the controlling issue of public interest.

Therefore, at that stage, there existed two substantial and material questions of fact which, pursuant to 47 U.S.C.A. §309(e), required the FCC to conduct a hearing. This conclusion is reinforced by the fact that upon the record as it existed at that stage the FCC was "unable to make the finding specified" and therefore sent a letter request to Strauss for more evidence dated March 4, 1969, a request for evidence relating to the very factual finding which was primarily placed in issue by the Citizens Committee's pleadings, and required by statute to be reached by the FCC before it could grant the application.

The fact that Strauss had only submitted the hearsay reports of interviews with thirteen individuals, the validity of which was questioned, as opposed to the contrary expressions of over two thousand individuals, standing alone, was sufficient to require the immediate granting of a hearing.



As stated by Commissioner Cox in his dissent:

"In the light of these facts, and the very substantial protest from the Atlanta audience, I do not think we can find it is transfer in the public interest without exploring it on a hearing record."

This Court in two very similar cases has held that a hearing is required. Joseph v. F.C.C., 404 F.2d 207 (D.C. Cir. 1968); Office of Communication of United Church of Christ v. F.C.C., 359 F.2d 994 (D.C. Cir. 1966).

II. ADMINISTRATIVE AND/OR CONSTITUTIONAL DUE PROCESS WAS DENIED THE CITIZENS COMMITTEE WHEN THE FCC REQUESTED THE EX PARTE SUBMISSION OF EVIDENCE FROM STRAUSS UPON THE ULTIMATE ISSUE OF FACT WITHOUT GRANTING THE CITIZENS COMMITTEE'S REQUEST FOR AN EVIDENTIARY HEARING.

The Citizens Committee maintains that the FCC's March 4, 1969 letter was an attempt to wrongfully substitute for its right to a hearing, the ex parte submissions of its adversary, not subject to cross-examination, and without giving the Citizens Committee an equal opportunity to be heard. (Strauss filed its response to said letter one and one-half months after the request while the Citizens Committee was given only about fifteen days to respond. See App. 296)

In addition, it must be noted that the Citizens Committee did not have the resources or ability to produce evidence in such a manner, all of which was well known to the FCC; and, furthermore, no such submissions can adequately substitute for the true adversary hearing provided by statute as a matter of right.

The Citizens Committee maintains that the FCC, through its March 4, 1969 letter and the response by Strauss thereto, has attempted to deny the Citizens Committee its due process right to an evidentiary hearing while giving Strauss an opportunity to supplement a record, previously void of the evidence necessary to support its duty and claim of serving the public's interests, as well as creating for the FCC a cleverly conceived, but nonetheless improper and illusory "evidentiary" record with all of the appearances of regularity but absent participation by one of two adverse parties, and therefore in derogation of the due process rights of the Citizens Committee.

Such an action by an administrative agency violates all notions of fair play and substantial justice.

III. AS A RESULT OF THE FCC'S FAILURE TO RENDER A DECISION WITHIN NINETY DAYS OF THE FILING OF THE PETITION FOR RECONSIDERATION, AS REQUIRED BY 47 U.S.C.A. §405, THE FCC'S ORDER AND DECISION RELEASED AUGUST 25, 1969 IS VOID AND THE REQUEST OF THE CITIZENS COMMITTEE FOR AN EVIDENTIARY HEARING, THEREFORE, STANDS GRANTED OR SHOULD BE ENFORCED BY VIRTUE OF THIS VIOLATION OF A CONGRESSIONAL MANDATE.

The Petition for Reconsideration filed by the Citizens Committee was filed on September 25, 1968.

47 U.S.C.A. §405 states:

"...that in any case where such petition [for reconsideration] relates to an instrument of authorization granted without a hearing, the Commission, or designated authority within the Commission, shall take such action within ninety days of the filing of such petition."

The decision of the FCC on the Citizens Committee's Petition for Reconsideration was not released until August 25, 1969, some eleven months after the Petition was filed, and some ninety days after the last submission by either party was received by the FCC.

The Citizens Committee maintains that since the FCC did not act on this petition within the ninety days required by Congress, its Order and decision is void since Congress did not grant the FCC the power or the right to enter an order and decision upon a Petition for Reconsideration after the ninety day period, and to the extent that the FCC did act beyond that time period, its action was ultra vires, or the action of a body pursuant to non-delegated authority.

The Citizens Committee further contends that since the order is void, its request for a public hearing stands granted, or should be enforced by this Court.

IV. WHEN A CHANGE IN PROGRAM FORMAT IS SOUGHT BY A TRANSFER APPLICANT AND A RESPONSIBLE REPRESENTATIVE OF THE LISTENING PUBLIC MAINTAINS THAT THE TOTAL LOSS OF THE PREVIOUS SERVICES IN A MULTI-BAND SERVICE COMMUNITY WILL NOT SERVE THE PUBLIC'S INTERESTS AND NEEDS, AND REQUESTS A PUBLIC HEARING, THE FCC HAS THE POWER AND THE DUTY TO RULE UPON THE QUESTION OF PUBLIC INTEREST IN EITHER GRANTING OR DENYING SAID APPLICATION.

In its order and opinion, the FCC, rather than making a factual finding on the question of public interest, in effect held that whether a program format best serves the public

interest is a judgment which lies in the absolute discretion of the licensee. This ruling fails to consider the intent of Congress in creating the FCC, the powers delegated to the FCC, and the reasoning of this Court in similar cases.

In Joseph v. F.C.C., 404 F.2d 207 (D.C. Cir. 1968)

this Court said:

"The public welfare requires the Commission to provide the 'widest possible dissemination of information from diverse and antagonistic sources' and to guard against undue concentration of control of communications power. The Act expressly prohibits assignment of a broadcast license 'except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. '"

Congress says the following:

"It is the public in individual communities

throughout the length and breadth of our country who must bear final responsibility for the quality and adequacy of television service - whether it be originated by local stations or by national networks. Under our system, the interests of the public are dominant. The commercial needs of licensed broadcasters and advertisers must be integrated into those of the public. Hence, individual citizens and the communities they compose owe a duty to themselves and their peers to take an active interest in the scope and quality of the television service which stations and networks provide and which, undoubtedly, has a vast impact on their lives and the lives of their children. Nor need the public feel that in taking a hand in broadcasting they are unduly interfering in the private business affairs of others.



On the contrary, their interest in programming is direct and their responsibilities important. They are the owners of the channels of television - indeed, of all broadcasting." FCC, Television Network Program Procurement, H. R. Rep. No. 281, 88th Cong., 1st Sess. 20 (1963), cited with approval by this Court in Office of Communication of United Church of Christ v. F.C.C., 359 F. 2d 994, at 1003.

By holding that the applicant for license transfer in the present case may exercise its own judgment in determining what will best serve the public's interest, the FCC has failed to perform the function which it was created to perform, has allowed one party to an adversary proceeding to be the trier of the ultimate material factual issue, and has ignored its statutory and legal mandate as protectorate of the public interest.

"Thus we are brought around by analogy to the Supreme Court's reasoning in Sanders; unless the listeners - the



broadcast consumers - can be heard, there may be no one to bring programming deficiencies of offensive overcommercialization to the attention of the Commission in an effective manner. By process of elimination those 'consumers' willing to shoulder the burdensome and costly process of intervention in a Commission proceeding are likely to be the only ones 'having a sufficient interest' to challenge a renewal application. The late Edmond Cahn addressed himself to this problem in its broadest aspects when he said, "Some consumers need bread; others need Shakespeare; others need their rightful place in the national society - what they all need is processors of law who will consider the people's needs more significant than administrative convenience."

Law in the Consumer Perspective, 112 U.Pa.L.Rev. 1, 13 (1963), cited with approval by this Court in

Office of Communication of United Church  
of Christ v. F.C.C., 359 F.2d 994, at 1005.

V. THERE IS NOT SUFFICIENT EVIDENCE IN THE  
RECORD BELOW AND IN THE ABSENCE OF AN  
EVIDENTIARY HEARING UPON WHICH THE FCC  
COULD CONCLUDE THAT NO MISREPRESENTATIONS  
WERE MADE.

The Citizens Committee maintains that absent a hearing, the evidence in the record relating to the alleged misrepresentations by Strauss to the FCC of the thirteen interviews made pursuant to the FCC's requirement that the applicant ascertain the community needs was not procedurally ripe for a finding of fact by the FCC.

However, even if it were, the evidence clearly demonstrates that Strauss represented to the FCC that in each instance all of the thirteen interviewees felt Strauss' proposed programming would best serve the public interest and no concern was expressed over the loss of a classical music format. (See App. 15 and 16 et. seq.) Such a representation was clearly false as revealed by the affidavits of some of these thirteen individuals filed by the Citizens Committee. (App. 76; see also App. 98, et. seq.) Indeed, there was no evidence in the record upon which the FCC could base

its finding of no misrepresentations, and, therefore, this finding of fact should be set aside, and the issue developed upon a hearing record.

VI. MISREPRESENTATIONS OF A BROADCASTER'S EMPLOYEES TO ADVERTISERS AS TO THE STATION'S PROGRAM FORMAT, MADE FOR THE PURPOSE OF INDUCING ADVERTISING, IS MISCONDUCT WHICH THE FCC MAY CONSIDER IN DETERMINING IF A LICENSEE APPLICANT WILL SERVE THE PUBLIC'S INTERESTS.

In support of its contentions that approval of Strauss' transfer application would not best serve the public's interests, the Citizens Committee filed with the FCC, along with other supporting evidence, the affidavit of a WKA advertiser which demonstrated misconduct on the part of Strauss in its solicitations of advertisers for its new program format. (App. 212) In its opinion and order the FCC ruled that since this alleged misconduct did not occur before the Commission, the Commission was not concerned with such conduct and did not, therefore, need to make a ruling on said allegations.

The Citizens Committee maintains that the conduct of a radio station in its business affairs is and always has been a matter within the purview of the Commission as it

reflects upon the manner in which a broadcaster will serve the public's interest and the failure of the FCC to even consider the alleged misconduct constitutes reversible error.

CONCLUSION

For the foregoing reasons, the Citizens Committee respectfully submits that the order and opinion of the FCC released August 25, 1969, be set aside and the case be remanded to the FCC with instructions to conduct an evidentiary hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing Brief of the Appellant was mailed, postage prepaid, by the undersigned on the 9th day of December, 1969, to the following persons:

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UNITED STATES COURT OF APPEALS

for the

DISTRICT OF COLUMBIA CIRCUIT

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NO. 23,515

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THE CITIZENS COMMITTEE TO  
PRESERVE THE PRESENT PROGRAMMING  
OF THE "VOICE OF THE ARTS IN  
ATLANTA ON WGKA-AM AND FM.",

Appellant,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Appellee,

. and

STRAUSS BROADCASTING COMPANY OF ATLANTA,

Intervenor.

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On Appeal from the Federal  
Communications Commission

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BRIEF FOR INTERVENOR

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UNITED STATES COURT OF APPEALS  
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THE CITIZENS COMMITTEE TO  
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On Appeal from the Federal  
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BRIEF FOR INTERVENOR

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QUESTIONS PRESENTED\*

The statement of the questions presented as set forth in the Brief for Appellee is correct and hereby adopted by Intervenor, Strauss Broadcasting Company of Atlanta (hereinafter "Strauss").

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\* This case has not been before the court previously.

STATEMENT OF THE CASE

Strauss hereby adopts the "Statement of the Case" as contained in the Brief for Appellee with the addition of the following facts and circumstances:

Although the Strauss application was filed on March 5, 1968, although numerous newspaper articles and an editorial appeared in the Atlanta Journal exhorting the public to complain to the Commission about the change in program format for WGKA-AM and FM proposed in the application, and although 2000 persons did file informal complaints with the Commission prior to the grant of the Strauss application which occurred some six months after the filing of the application, the Appellant Citizens Committee failed to file either informal objections pursuant to Rule 1.587, 47 C.F.R. § 1.587 (1969), or a pre-grant petition to deny pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(d)(1) (1964), and Rule 1.580(i), 47 C.F.R. § 1.580(i) (1969). Instead, the Committee waited until after the Commission's grant and then filed its petition for reconsideration.

The Committee's petition for reconsideration was filed within the 30-day period provided by Section 405 of the Communications Act, 47 U.S.C. § 405 (1964), and Section 1.106(f) of the Commission's Rules and Regulations, 47 C.F.R. § 1.106(f) (1969). The latter rule provides that a "petition for reconsideration and any supplement thereto" must be filed within 30 days of the release of the document containing the full text of the action of which reconsideration is sought. (Emphasis supplied.)

In disregard of the statute and the rule, the Committee filed two lengthy supplements to its petition for reconsideration -- one of which was filed 47 days after the release of the Order complained of and the other 96 days after the release date. (Appendix, pp. 76, et seq., pp. 214, et seq.) Thereafter, additional pleadings were filed by the Committee including the final one described below.

As indicated in Brief for Appellee, the last document submitted by Appellant ("Committee") to the Commission prior to the release on August 25, 1969, of the Commission's Memorandum Opinion and Order appealed



from was a letter, dated May 22, 1969, and received by the Commission on May 29, 1969, which was in the nature of a further pleading, fifteen pages in length, which, after arguing the merits of the matter at length, closed with the statement that "Petitioner represents . . . that no further pleadings or communications are required or authorized in this matter; that the matter is ripe for decision; and that Petitioner is entitled to the relief it prays for." (Appendix, pp. 297-312.) Thus, the final substantive pleading by the Committee requesting reconsideration of the Commission's earlier grant was lodged with the Commission within 90 days of its final decision.

ARGUMENT

I. The Commission Correctly Held That The Musical Program Format Of A Broadcast Station Is A Matter Entrusted To Licensee Discretion

The Committee's Petition for Reconsideration is directed solely to the change of the musical programming format for stations WGKA-AM and FM proposed by Strauss upon the acquisition of the licenses for those stations. The qualifications of Strauss to become the licensee -- legal, financial and otherwise -- were not questioned.

Under Title 47 U.S.C. § 310(b) (1964)<sup>1/</sup> in considering the application for transfer of the licenses of WGKA to Strauss, the Commission was not permitted to consider whether the public interest, convenience, and necessity

1/ Section 310(b) provides, in part, as follows:

"No construction permit or station license, or any rights thereunder, shall be transferred . . . except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee." (Emphasis supplied.)

might be served by transfer to a person other than the proposed transferee who might offer a program service different from that proposed by Strauss. Where permission is sought to assign a valid authorization, "the only question is whether the proposed assignee possesses the minimum qualifications consistent with the 'public interest, convenience, or necessity'" (emphasis supplied).

MG-TV. Broadcasting Company v. Federal Communications Commission, \_\_\_\_ U.S. App. D.C. \_\_\_\_, 408 F.2d 1257, at 1264 (1968). The Commission may not consider whether others are better qualified. L. B. Wilson, Inc. v. Federal Communications Commission, 130 U.S. App. D.C. 156, 397 F.2d 717 (1968).

Thus, in assessing Strauss' qualifications for the grant, the Commission could consider only the proposed programming of Strauss in the light of the estimates of community needs and preferences which Strauss was able to ascertain and which it desired to serve. Therefore, the only question before the Commission was whether Strauss had, in fact, made a reasonable effort to ascertain community needs and preferences and had

designed programming calculated to fill the needs and preferences so ascertained by Strauss.

The record clearly indicates that Strauss satisfied the requirements of the Commission in every respect in complying with the requirements of the Commission to go out and survey community needs and to plan its programming in accordance therewith. The original application for transfer of control (Appendix, pp. 9, 10 and 13B) contains the results of interviews of community leaders. A later amendment to the application (Appendix, pp. 22-29E) provided the details of these interviews. Moreover, a statistical survey of a random sample of the listening public was made in October of 1968 for Strauss by a professional survey organization, Marketing & Research Counsellors, Inc. (Appendix, pp. 137-149). At the request of the Commission for additional information, two more surveys were conducted by Marketing & Research Counsellors, Inc. for Strauss in March of 1969, one of the listening public (Appendix, pp. 249-260) and one of 116 community leaders (Appendix, pp. 261-64). An analysis of the programming offered in the

Atlanta area by competing stations (Appendix, pp. 265-274) was also submitted to the Commission. The supporting documents, which indicated a very strong preference among the public of Atlanta for the type of music Strauss proposed to broadcast, clearly justified the proposed programming of Strauss which is a unique service not offered by any of the other competing stations, and fully justified the finding of the Commission that the transfer of the license to Strauss was consistent with the public interest, convenience, and necessity.

Whether another licensee might, by programming all classical music, also serve the public interest, convenience, and necessity was not a "substantial or material fact" to be taken into consideration. Indeed, we must assume that all of the licensed stations in the Atlanta market have been found by the Commission to serve the public interest -- yet, some broadcast "country and western," some "rock and roll," some "middle of the road" and one, WOMN, Decatur, Georgia, which serves a large part of Atlanta, broadcasts all "classical" music. The Strauss proposal was to broadcast a "music mix" not otherwise available in Atlanta, namely, Broadway Show

tunes, popular favorites, musical standards, light classical, classical and opera.<sup>1/</sup> As indicated, the Strauss surveys demonstrated a strong public demand for this "mix" -- apart from the classical and operatic music. Yet, Strauss "went the extra mile" and proposed to serve this minority taste as well.

Under these circumstances, the Commission was clearly within the proper scope of its discretion in denying the Committee's petition for reconsideration. Indeed, had it done otherwise, it would have transgressed the limits of its authority under the First Amendment to the Constitution and Section 326 of the Communications Act, 47 U.S.C. § 326 (1964), which provides that:

"Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."

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<sup>1/</sup> In response to the letters of complaint from the minority of Atlantans who favored classical music, Strauss represented to the Commission and, in fact, went on the air in November, 1968, with pure classical music on WGKA-FM from 8:00 p.m. to sign-off six nights a week with a complete opera broadcast on Sunday evenings. (Appendix, p. 108.)

The Commission thus operates under both a Constitutional and Congressional mandate to avoid dictating program content. The various exceptions to this blanket prohibition against censorship involve either the protection of public morals or the protection of the right of public expression.<sup>1/</sup> But, a determination by the Commission that a licensee should confine its programming to all classical music would be authorizing exactly the same kind of monopolization of the air waves that Section 315 of the Communications Act and the "fairness doctrine" were designed to prevent.

Nor has the Commission ever sought to supervise the tastes of the listening public. In its network programming inquiry, Commission Policy on Programming, 20 P & F Radio Reg. 1901, 1907 (1960), the Commission stated:

"Although the Commission must determine whether the total program service of broadcasters is reasonably responsive to the interests and needs

<sup>1/</sup> See, e.g., Title 18, U.S.C. §§ 1304, 1343 and 1464 (1964); New York State Broadcasters Ass'n. v. United States, 414 F.2d 990 (2d Cir. 1969); Title 47 U.S.C. § 315 (1964); Red Lion Broadcasting Company, et al. v. Federal Communications Commission, 395 U.S. 367 (1969).



of the public they serve, it may not condition the grant, denial or revocation of a broadcast license upon its own subjective determination of what is or is not a good program. . . ."

In stating the Commission role, the Commission quoted Justice Douglas from his dissenting opinion in Public Utilities Commission v. Pollack, 343 U.S. 451, 468-9 (1952):

" . . . The music selected by one bureaucrat may be as offensive to some as it is soothing to others . . . . Once a man is forced to submit to one type of radio program, he can be forced to submit to another. It may be but a short step from a cultural program to a political program. . . ."

Thus, the Commission has wisely sought to avoid becoming a cultural czar,<sup>1/</sup> which neither the law nor the public would tolerate, by permitting the free flow of ideas and entertainment within the market place,

<sup>1/</sup> Palmetto Broadcasting Co. (WDKD), 33 F.C.C. 250, 257 (1962), reconsideration denied, 34 F.C.C. 101 (1963), affirmed sub nom. Robinson v. Federal Communications Commission, 118 U.S. App. D.C. 144, 334 F.2d 534 (1964); Pacifica Foundation, 36 F.C.C. 147, 149 (1964). The most recent effort to engage the Commission in such capacity involved broadcast of anti-semitic material. Anti-Defamation League of B'nai B'rith Against Station KTYM, 4 F.C.C. 2d 190 (1966), rehearing denied, 6 F.C.C. 2d 385 (1967), affirmed, Anti-Defamation League of B'nai B'rith v. Federal Communications Commission, 131 U.S. App. D.C. 146 (403 F.2d 169 (1968), cert. den., 394 U.S. 930 (1969).

according to the judgment of the licensee based upon his assiduous efforts to determine the needs of the community and tested by his success with his listening public. Indeed, the Citizens Committee has itself admitted that classical music is not "everyone's cup of tea" (Appendix, p. 42).

The Commission could, in a comparative hearing, find that the public interest, convenience, and necessity might better be served by the selection of one of several licensees who offered, to the exclusion of the others, specialized music or foreign language or educational programming where the licensee voluntarily offered to provide such service and its back-up surveys of the listening public and community leaders substantiated a need for such specialized service in the listening area. What the Commission could not do, however, is to require a licensee to provide a particular kind of programming to the exclusion of other kinds of programming. To impose such a restriction upon a licensee would be censorship in gross, clearly in contravention of the First Amendment and Section 326 of the Communications Act of 1934. Yet, it was precisely this unlawful

action which the Committee sought to require the Commission to take in its petition for reconsideration.

In the present proceeding, the Commission operated within the proper scope of its power when it determined that Strauss had met the requirements of the statute in deciding what the listening public needed and in designing its programming to meet that need.

II. Appellant's Allegations Of Misrepresentation Raised No Substantial Or Material Question Of Fact Which Would Require The Commission To Hold An Evidentiary Hearing

The Citizens Committee made allegations of misrepresentations in the survey of community leaders which Strauss offered in support of its proposed programming. Affidavits from six of the thirteen community leaders interviewed by Strauss were submitted to the Commission (Appendix, pp. 80-90) by the Committee purporting to support the Committee in its contention that retention of a classical music station was in the public interest and to deny any intent that their remarks to a representative of Strauss should be used to support a public preference for the new proposed programming over the previous classical music programming. However, Strauss

thereafter obtained statements from the community leaders interviewed to the effect that the reports of the interviews submitted to the Commission by Strauss, which were written by the Strauss representative immediately following each interview, were substantially correct in representing the content of the interviews. (Appendix, pp. 105-130.)

Thus, it is apparent that, if any misrepresentations were made, they were misrepresentations of the Citizens Committee to the interviewees that the content of the interviews was being used by Strauss to support an argument before the Commission that the interviewer did not approve the programming previously offered. This was clearly not the case.

Moreover, there was certainly no conflict of fact presented in this situation. This was not a case where "Affiant A" made a statement of fact and "Affiant B" contradicted "A". Rather, "Affiant A" made a statement of fact and then later, when given the correct and full information as to the matter in question, the same "Affiant A" voluntarily corrected his original statement of fact. Obviously, this did not create a substantial

question of fact requiring a hearing. Indeed, even if -- as was not the case here -- conflicting affidavits had been submitted, a material issue of fact requiring a hearing would not necessarily have resulted. Broadcast Enterprises, Inc. v. Federal Communications Commission, 129 U.S. App. D.C. 68, 390 F.2d 483 (1968); Capitol Broadcasting Co. v. Federal Communications Commission, 116 U.S. App. D.C. 370, 324 F.2d 402 (1963); Southwestern Operating Co. v. Federal Communications Commission, 122 U.S. App. D.C. 137, 351 F.2d 834 (1965).

The only other allegation of misrepresentation by the Committee was its contention that a WGKA time salesman had misrepresented the nature of the proposed music format to a potential advertiser. The Committee argues that an alleged misrepresentation of program format to an advertiser by a salesman was misconduct which the Commission may consider in determining if an applicant will serve the public's interests. (Appellant's Brief, 23.) The Commission did not hold, and we do not argue, that the Commission could not consider misrepresentation by a licensee in an application for transfer of license. Normally, the situation arises with a

misrepresentation by the applicant to the Commission of material facts which may affect his ability to perform in the public interest, or it arises with a misrepresentation by the applicant in circumstances which reflect upon his character. Neither is involved here. What the Committee charged was a bare allegation of a misrepresentation by an agent of the proposed licensee to a third party.

Strauss did not concede that such a misrepresentation had been made.<sup>1/</sup> A careful review of the record (Appendix, pp. 219-231) reveals no "actual calculated misrepresentation" except in the characterizations of counsel for the Citizens Committee. It is no doubt

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<sup>1/</sup> Indeed, under the circumstances, with the wide newspaper coverage of the proposed change of program format, it is hard to believe that the advertiser in question was misled into believing that WGKA-FM would continue as a full-time classical station.

But assuming, arguendo, that such misrepresentation did occur, there is no evidence that it was authorized by the principals of Strauss so that it might be considered to reflect upon their character and ability to operate the stations in the public interest. On the contrary, Strauss was most candid with the Commission and with the public in all of its representations concerning the change in format.

possible that the salesman who visited the advertiser did show the advertiser some covers of classical records which Strauss intended to play on the FM station, since WGKA-FM continued its classical programming during the evening hours. There is no allegation in the affidavit (Appendix, p. 221) that the salesman stated to the advertiser that the records represented the exclusive programming offered by Strauss.

Moreover, Strauss' response did not join issue on the matter, but was a motion to strike the Committee's pleading containing the allegation since it raised a question of private contract law over which the Commission has historically declined to assert jurisdiction (Appendix, pp. 232-233.) Triangle Broadcasting Co., 3 P & F Radio Reg. 2d 836, 840 (1964); Northern Pacific Radio Corp., 23 P & F Radio Reg. 186, 190 (1962); Stanmark, Inc., 18 P & F Radio Reg. 1002a, 1002d (1960). The Commission properly held that this was a matter to be resolved in the local courts in Atlanta. (Appendix, p. 319.)

There is also implicit in the finding of the Commission that the allegation, if true, would not be



a substantial fact which would require an evidentiary hearing. Such finding has been found proper in cases where the controversy, if resolved, would not change the outcome of the Commission's decision. Audiocasting of Texas, Inc., 3 P & F Radio Reg. 2d 1035 (1964). This was an appropriate case for such conclusion. No misrepresentations were made to the Commission or by the applicant and the record contained evidence to support the conclusion that Strauss possessed the character, financial and other qualifications requisite to operation of the stations in the public interest.

In sum, the Commission fully considered all of the allegations and supporting documentation offered by the Committee, analyzed them in detail in its well-considered opinion and fully set forth its reasons for concluding that no substantial and material questions of fact were presented which would require an evidentiary hearing. The Commission clearly met the standard of performance required of it, which is to consider fully the allegations of parties filing petitions to deny or to reconsider, Joseph v. Federal Communications Commission,

131 U.S. App. D.C. 207, 404 F.2d 207 (1968), <sup>1/</sup> and to set forth its reasons for declining to hold an evidentiary hearing in sufficient detail so that the courts may determine whether the action was arbitrary, capricious or unreasonable. West Michigan Telecasters, Inc. v. Federal Communications Commission, 130 U.S. App. D.C. 39, 396 F.2d 688 (1968).

III. Appellant's Contentions That It Was Denied "Due Process" And That The Commission's Actions Were Void Are Without Merit

There is no merit in the argument of the Citizens Committee to the effect that it was denied due process by the Commission's request to Strauss for what the Committee characterizes as "ex parte" submissions to amplify the application with respect to ascertainment of community needs (Appendix, p. 241). <sup>2/</sup>

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<sup>1/</sup> The Committee's heavy reliance upon the Joseph case is misplaced. There the central question before the Court was whether the citizens committee had exhausted its administrative remedies prior to appeal by the proper filing of a petition for reconsideration. Moreover, in that case the Commission had issued no opinion disposing of the facts but merely a minute entry, granting the assignment application.

<sup>2/</sup> It should be emphasized that the Committee was fully apprised of the Commission's request for additional information; was served with a copy thereof when the information was filed by Strauss and was given 30 days within which to respond. The Committee responded fully with a 15-page letter form of pleading (Appendix, pp. 241-321). It is thus clear that there were no improper "ex parte" representations by Strauss to the Commission.

There was no impropriety in the Commission seeking further information from Strauss before rendering a decision to deny the petition for reconsideration. It has been the usual practice for the Commission to aid applicants whose submissions might not be complete, and amendments to applications before hearing are freely solicited by the Commission and accepted, e.g., West Michigan Telecasters, Inc. v. Federal Communications Commission, 130 U.S. App. D.C. 39, 396 F.2d 688 (1968).

This has been a long standing policy of the Commission. A requirement was written into the 1952 amendments of Section 309(b) that the Commission must notify the applicant of shortcomings in his application and must give him a chance to reply. 66 Stat. 715 (1952). Although the so-called "McFarland letter" procedure was later repealed, 74 Stat. 889 (1960), there was no suggestion that Congress intended to prohibit the Commission from aiding an applicant to perfect his application. On the contrary, the House Committee Report stated:

"Since the Commission has ample authority to give such notice of objection and opportunity to reply it did not appear necessary to

include this proviso. Its deletion should not be construed as an indication on the part of the committee that such notice and opportunity for reply should not be given in all those cases where the business of the Commission would be expedited thereby. Quite to the contrary the committee expects that the Commission will use any procedural devices available to it to expedite its business." H.R. No. 1800, 86th Cong., 2d Sess. 13 (1960).

Discretionary authority to require additional material from applicants is provided in Section 308(b)<sup>1/</sup> of the Communications Act, 47 U.S.C. § 308(b) (1964), which is made applicable to applications for the transfer of control by the provisions of Section 310(b), 47 U.S.C. § 310(b) (1964).

Thus, since the Committee was fully apprised of the request for additional information and was given full opportunity to respond thereto -- which it, in fact, did -- it is indeed difficult to comprehend how the

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<sup>1/</sup> Section 308(b) provides in part, as follows:

" . . . The Commission, at any time after the filing of such original application and during the term of any such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked."

Committee could have been deprived of due process by this procedure.

It is even less becoming for the Committee to contend that the Commission's action was void because not taken within ninety days of the filing of the Committee's petition for reconsideration. If anything, the Commission bent over backwards to be fair to the Committee and to assure that all of its contentions received consideration. This case is wholly unlike Joseph, et al. v. Federal Communications Commission, 131 U.S. App. D.C. 207, 404 F.2d 207 (1968), and Office of Communication of United Church of Christ v. Federal Communications Commission, 123 U.S. App. D.C. 328, 359 F.2d 994 (1966), relied upon by the Committee. In Joseph, the informal protestations of the citizens committee were rejected without opinion by the Commission. In Church of Christ, the citizen-protestants were denied standing.

In the instant case, the Committee failed to file a pre-grant petition to deny under Section 309(d) of the Communications Act, 47 U.S.C. § 309(d) (1964), and failed to file informal objections to the grant

pursuant to Rule 1.587, 47 C.F.R. § 1.587 (1969). Instead -- and it must have been fully aware of the pendency of the application in view of the newspaper coverage of the change in format -- it waited until after the Commission had acted to state its opposition. Even then it misstated its composition to the Commission, alleging that the Committee consisted of all of the some 2000 persons who had written letters to the Commission when, in fact, seven days after the Committee was formed and three days after this representation was made to the Commission, the letter writers had not even been contacted by the Committee. (Appendix, pp. 36, 52-54, 69.)

The Commission nevertheless gave the petition for reconsideration full attention. Indeed, the Commission could not have acted within the ninety-day period without summarily dismissing the contentions of the Committee, because the Committee continued to offer "amendments" and other substantive pleadings supplementing its original petition during and after the ninety-day period expired.

Although the various "amendments" and supplements to the petition for reconsideration were not properly filed by the Committee, according to the requirements of Section 1.106(f) of the Commission's Rules, 47 C.F.R. § 1.106(f)(1969),<sup>1/</sup> it is obvious that the Commission gave full consideration to them even though it could have rejected them as untimely. Thus, the Commission -- heeding this Court's mandates in the Joseph and Church of Christ cases, supra -- was unusually lenient with the Citizens Committee to avoid cutting off this valuable community response because of improperly filed pleadings and procedural inadequacies.

In any event, the record establishes that the Commission acted promptly and within ninety days after the last substantive communication from the Committee, consisting of 15 pages of argument (Appendix, pp. 297-312) which was dated May 22, 1969, and received by the Commission on May 29, 1969. Moreover, the Committee admitted during the course of the proceedings that the

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<sup>1/</sup> Section 1.106(f) requires that any petition for reconsideration "and any supplement thereto" be filed within 30 days after release of the full text of the decision of which reconsideration is sought.



ninety-day rule is waivable and that the imposition of the strict ninety-day rule would cause an undue burden upon the Commission. For this reason, the Committee expressly waived the 90-day period by letter from its counsel in order to permit the Commission to consider another "amendment" to its original petition, filed long after the 30-day period for such filings had expired. (Appendix, pp. 212-213.) To now argue before this Court that the Commission's ultimate action is void because of the expiration of the 90-day period is indeed in ill grace.

The Commission has been unusually generous in its handling of the Citizens Committee and has shown every effort to take into consideration the complaints made by it. If the Commission erred, it erred in the direction of giving more full and fair treatment to the complaints and allegations of the Citizens Committee than was their due.

CONCLUSION

The Commission's decision appealed from was well-reasoned and fully within the proper scope of its discretion. There were no substantial or material questions of fact requiring an evidentiary hearing. All of the complaints of the Citizens' Committee were fully considered by the Commission and their disposition justified. For these and the foregoing reasons, the Commission's decision should be affirmed.

Respectfully submitted,

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January 23, 1970



100-7-126  
5-15-70  
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BRIEF FOR APPELLEE

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23,515

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THE CITIZENS COMMITTEE TO PRESERVE  
THE PRESENT PROGRAMMING OF THE  
"VOICE OF THE ARTS IN ATLANTA  
ON WGKA-AM and FM,"  
Appellant,

v.

FEDERAL COMMUNICATIONS COMMISSION,  
Appellee,

STRAUSS BROADCASTING COMPANY OF ATLANTA,  
Intervenor.

ON APPEAL FROM ORDERS OF THE  
FEDERAL COMMUNICATIONS COMMISSION

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United States Court of Appeals  
for the District of Columbia Circuit

FILED JAN 23 1970

*Nathan J. Paulson*  
CLERK

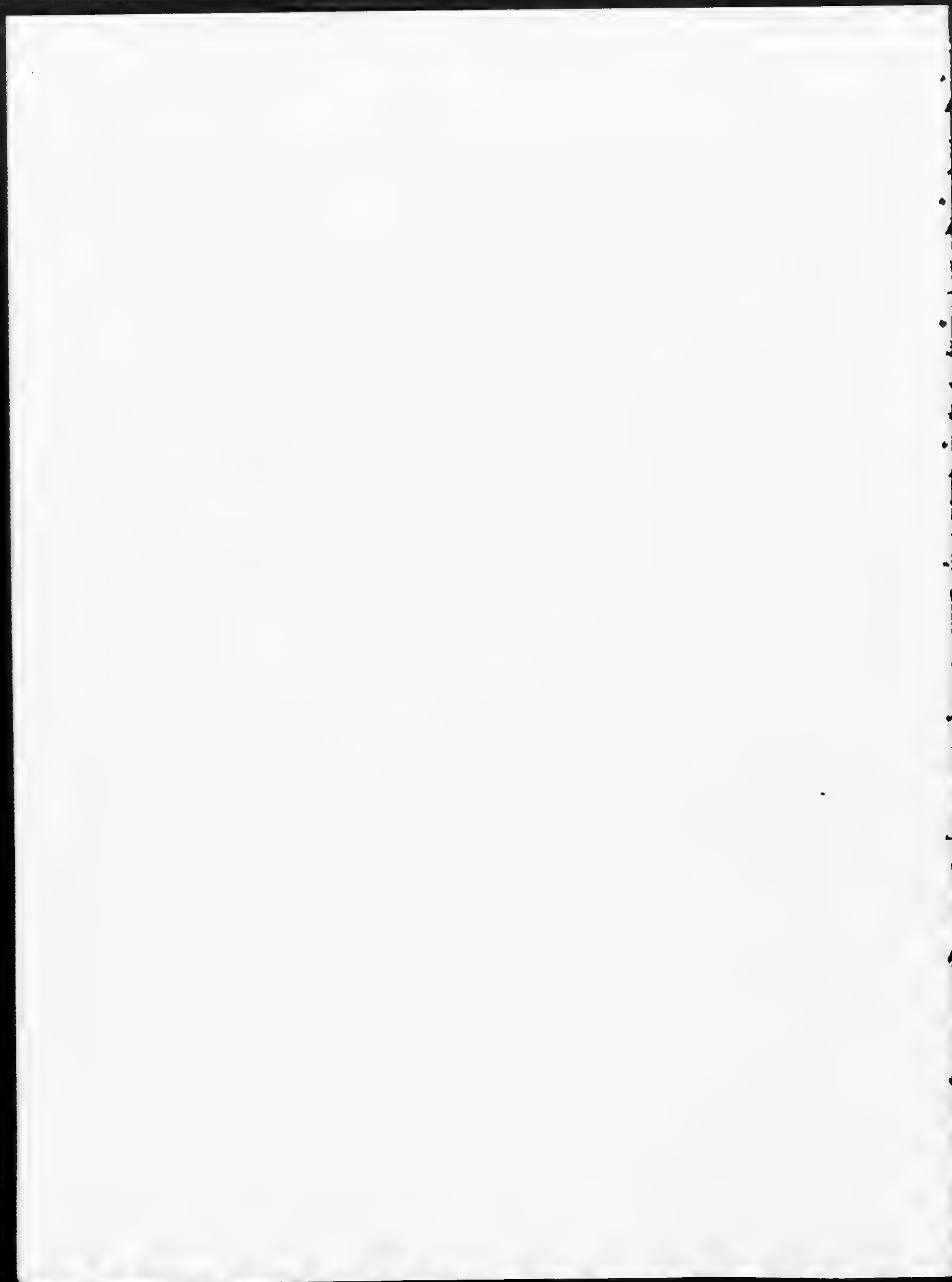
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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 23,515

---

THE CITIZENS COMMITTEE TO PRESERVE  
THE PRESENT PROGRAMMING OF THE  
"VOICE OF THE ARTS IN ATLANTA  
ON WGKA-AM and FM,"  
Appellant,

v.

FEDERAL COMMUNICATIONS COMMISSION,  
Appellee,

STRAUSS BROADCASTING COMPANY OF ATLANTA,  
Intervenor.

---

ON APPEAL FROM ORDERS OF THE  
FEDERAL COMMUNICATIONS COMMISSION

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BRIEF FOR APPELLEE

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QUESTIONS PRESENTED\*

Whether the Commission properly exercised its discretion  
in denying appellant's Petition for Reconsideration of its grant  
of the application for transfer of control of WGKA-AM and FM and  
specifically:

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\* This case has not previously been before this Court.

(a) whether the Commission was properly satisfied that the transferee's program format would serve the tastes, needs and interests of its community; and

(b) whether the Commission correctly determined that no substantial and material questions of fact were raised by appellant's assertions of misrepresentations.

STATEMENT OF THE CASE

This is an appeal filed pursuant to Section 402(b)(6) of the Communications Act of 1934, as amended, 47 U.S.C. 402(b)(6), from a Memorandum Opinion and Order of the Federal Communications Commission, released August 25, 1969 (A. 313-322), which denied appellant Citizens Committee's Petition for Reconsideration and affirmed the Commission's prior grant (A. 30-33) of an application for transfer of control of the licensee of WGKA-AM and FM.

On March 5, 1968, there was filed with the Commission an application for the transfer of control of the stock of the licensee of WGKA and WGKA-FM, Atlanta, Georgia. The shareholders of Glenkaren Associates, Inc. (Glenkaren) sought to transfer their stock to Strauss Broadcasting Company of Atlanta (Strauss) because Glenkaren lacked the capital to make necessary changes in its AM facility.<sup>1/</sup> Under Glenkaren, WGKA had been a predominantly

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<sup>1/</sup> See Transfer Application (Record Item 1), Section I, p. 2. See also 47 CFR 73.242 (1969).

"classical" music station,<sup>2/</sup> which totally duplicated its AM programming on its FM facility (A. 31).

Strauss, as transferee, proposed an essentially musical format for the Atlanta facility consisting of a "blend of popular favorites, Broadway hits, musical standards, and light classics" (A. 7). Strauss proposed to eliminate all duplication of AM programming on the FM facility except for the regular news broadcasts (A. 6). Strauss concluded on the basis of interviews with Atlanta community leaders that its proposed musical format would have broader appeal than the old all classical format (A. 9-11).

The AM facility is a daytime only operation. Under Glenkaren, therefore, classical music was duplicated on the AM and FM during daylight hours and continued in the evenings on the

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<sup>2/</sup> 74% classical, 5% standard and Broadway, 4% jazz, 1% folk music, 16% talk-news, etc., as per Renewal Application filed December 28, 1969. The Commission does not define musical categories. Those used by applicants and licensees are their own. One authority treats classical music as follows: "In music the word [classicism] is used in various connotations. Most commonly it denotes an antithesis to Romanticism . . . to others the word denotes music of established value and fame, as distinguished from ephemeral works which quickly disappear from the programs. For still others, usually, the less educated people, it has the somewhat deterrent meaning of 'art music' or highbrow music, in contradistinction to 'popular music' or music for entertainment. The latter connotations are, of course, deteriorations which do not deserve serious consideration." Apel, Harvard Dictionary of Music, 154-55 (Harvard University Press, 1962).

FM. As finally developed under Strauss, AM and FM broadcast different programming during the day and classical music on the FM during the evening hours (see p. 9, infra).

Subsequent to publication of the transfer application, one Dick Gray, television-radio editor for the Atlanta Journal, a newspaper, wrote a series of columns characterizing the change in WGKA's format as a "catastrophe" for all except those who "go blithely through life snapping their fingers to rock and roll, country-western and rhythm and blues . . . " (A. 61). Gray's columns called for classical music fans to write to the Commission in favor of the old WGKA format (A. 62-64).<sup>3/</sup> Just after Mr. Gray's columns appeared, the Commission received approximately 2000 letters requesting it not to permit a change in the music format of WGKA<sup>4/</sup> (A. 32).

On September 4, 1968, the Commission released its Memorandum Opinion and Order (Commissioner Cox, dissenting) granting the application for transfer of control (A. 31-33).

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<sup>3/</sup> When a reader noted that Mr. Gray wrote his columns for a newspaper affiliated through ownership with WSB, WSB-TV and WSB-FM of Atlanta and asked why he did not exhort his employer's stations to program classical music, Gray responded, ". . . it would be nice if the station [WSB] would at least program a little classical music to help us in our hour of need. But it would be naive to expect the strongest station in the market to change its format just to make me and the city's other classical addicts happy" (A. 68).

<sup>4/</sup> Strauss filed amendments to its application to elaborate on its method of ascertaining Atlanta's community needs and interests and to elaborate further on its program proposals in light of the possible misconceptions created in the public's mind by Mr. Gray's newspaper columns (A. 15 A-J and 16-29E).

Regarding the proposed change in program format, the Commission stated (A. 32-33):

The change in entertainment programming proposed by the transferee was the subject of criticism in numerous columns appearing in a local newspaper which was written by its television and radio editor. These columns asked readers who wanted to retain classical music to write to the Chairman of the Commission urging that the classical music format of these stations be preserved. After the publication of these columns, more than two thousand persons informally asked the Commission not to permit a change in the music format of these stations.

In our review of the over-all programming proposal presented by the transferee we considered carefully the concern expressed in the many informal complaints. We can appreciate that concern. However, the transferee has established through surveys and other methods that its proposal would serve the needs and interests of the people in the Atlanta market and the new specialized programming specifically serves the public interest. That being the case, the matter is one for judgment of the broadcaster and the Commission, in these instances, cannot properly insist that the prior format must be retained.

On September 25, 1968, the Commission receive a document captioned "Petition of the Citizens Committee to Preserve the Present Programming of the 'Voice of the Arts in Atlanta': WGKA-AM and FM for Reconsideration of the Federal Communications



Commission's Decision Approving Sale of WGKA Radio and the Change of its format from Classical to Popular Music, and For a Public Hearing to Determine What Is In Fact The Interest of the Listening Public"<sup>5/</sup> (A. 35-45).

This petition alleged, inter alia, that the letters protesting the transfer which followed Mr. Gray's newspaper columns were "unsolicited" and "spontaneous" (A. 36) and that the Citizens Committee included all the writers of those letters. However, it is uncontradicted that seven days after the Committee had been formed and three days after the Petition was filed with the Commission, the letter writers whose membership the Citizens Committee claimed had not yet even been contacted by the Committee (A. 36, 52-54, 69). The Petition further alleged that the Atlanta community leaders<sup>6/</sup> interviewed by Strauss as to Community needs and interests (A. 18-29E) were in "positions where they stand to benefit directly or indirectly, financially or politically by alignment with those economically involved in the sale of WGKA" (A.39). No specifics or support for this allegation was ever offered.

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<sup>5/</sup> Hereinafter, Petition.

<sup>6/</sup> These community leaders included among others the Chairman of the Board of Trustees of Emory University, the Sheriff of Fulton County and Atlanta's Chief of Police (A. 22-29E).

On October 9, 1968, Strauss filed with the Commission an Opposition to the Citizens Committee Petition (A. 46-75). Strauss' Opposition contended that the Petition set forth no facts or circumstances which could be a basis for reversing the Commission's grant of the transfer application. Strauss also represented (A. 59-60):

Recognizing the expressed interest of the some 2000 persons who advocated retention of the classical music format, Strauss will, at the outset, emphasize such music on WGKA-FM, particularly during the evening hours, while still providing a mix of popular favorites and Broadway hits.

\* \* \*

Strauss will continue to survey the needs of its listening area, both through community leader contacts and listener surveys. Should these surveys dictate changes in the format of either the AM or FM, whether for or against more classical music, Strauss will respond accordingly and so advise the Commission. This is what Strauss understands its licensee responsibility to be to the Commission and to the public -- a responsibility it intends to discharge.

On October 21, 1968, the Citizens Committee filed an "amendment" to its Petition. Although the "amendment" was untimely filed and no waiver of the Commission's Rules was requested,<sup>7/</sup> the Commission did consider this pleading in its final consideration (A. 76-90, 313). The Committee's "amendment" asserted that its agents contacted some of the community leaders

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<sup>7/</sup> See, 47 CFR 1.106(f).

whom Strauss had interviewed and further asserted that Strauss' accounts of its interviews were inaccurate. However, the "amendment" was silent as to what was represented to the interviewees by the Committee's agents in order to elicit the various responses appended to the "amendment" (A. 80-90). The Committee also requested a stay of the Commission's decision (A. 91).

Strauss responded by submitting an opposition to the stay request and a motion to strike the Committee's amendment (A. 92-97, 98-151). Strauss' pleadings noted that the Committee's "amendment" was untimely and unauthorized by Commission Rules and further submitted that it had re-contacted all community leaders then available whom it had previously interviewed and attached letters from those leaders confirming the substantial accuracy of Strauss' summaries of their original interviews (A. 109-130).

Strauss also submitted summaries of further current interviews with community leaders<sup>8/</sup> to substantiate its continuing efforts to ascertain community interests (A. 131-136). Further, Strauss submitted the results of a programming preference survey conducted in the Atlanta area in October, 1968, by Marketing and Research Counselors, Inc., a professional market research agency.

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<sup>8/</sup> E.g., the Mayor of Atlanta and the Lieutenant Governor of Georgia.

This survey confirmed Strauss' conclusion that its proposed music format would receive very high audience approval in Atlanta (A. 107-108, 137-149). Finally, Strauss stated that its new format would commence on November 10, 1968. Moreover, Strauss stated that "Commencing at 8:00 pm until 11:00 pm or 11:30 pm depending on the length of the works, WGKA-FM will be programmed with pure classical music six days a week. On Sunday nights starting at 8:00 pm WGKA-FM will broadcast a complete opera" (A. 108).

On November 14, 1968, the Citizens Committee filed an opposition to Strauss' motion to strike and on November 24, Strauss filed a reply to the Committee's opposition (A. 160-191). Both parties submitted materials designed to keep the Commission informed of "constructive negotiations in an attempt to explore the possibilities of a complete agreement . . ." (A. 211) between the Committee and Strauss (A. 192-213).

Both parties recognized that their continuing filing of pleadings and replies would make it impossible for the

Commission to issue its decision 90 days from the date of the Committee's original Petition for Reconsideration, assuming that Section 405 of the Communications Act required Commission action within that time period. Therefore both parties suggested waiver of that assumed requirement (A. 192-93, 211-13).

On December 9, 1968, the Citizens Committee filed a second "amendment" to its Petition for Reconsideration. The pleading was filed sixty-six (66) days after the final day permitted by the Commission's Rules for the filing of such pleadings<sup>9/</sup> (A.214-231). This pleading argued that a salesman for WGKA misrepresented the station's format to an advertiser. Strauss on December 10, 1968, filed a motion to strike and an opposition to the "amendment" arguing its erroneousess, untimeliness and irrelevancy (A. 232-37).

On January 9, 1969, counsel for the Citizens Committee wrote the Commission "in hopes you can help us resolve an embarrassing situation." Although the Committee was still "amending" its petition on December 9 and although it recognized that Strauss would have an opportunity to reply to its amendment, counsel

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<sup>9/</sup> See, 47 CFR 1.106(f).

"informed the Citizens Committee that they could expect a decision January 8, 1969" (A. 238). The Committee "spent hundreds of dollars for the printing and mailing of thousands of newsletters to its members calling a meeting for the evening of January 14, 1969, and informing them that at that time, a decision will have been reached" (A. 238). Counsel then inquired whether "the Committee can expect a decision prior to their meeting on Tuesday, January 14, 1969" (A. 239). On January 14, 1969, the Chief of the Renewal and Transfer Division, Broadcast Bureau, wrote counsel for the Committee that there was a 90-day time limit for the Commission's decision and also a 30-day time limit for the Committee's pleading, and that it would be inequitable to expect rigid adherence to the 90-day limit since the Committee had been excused from complying with the 30-day limit (A. 240).

On March 4, 1969, the Commission directed a letter to Strauss (served on all parties), which stated inter alia (A. 241):

In light of the considerations set forth in the petition and in the responses thereto, the Commission is of the view that further information would be helpful in resolving the matters raised in these pleadings. Specifically, it is requested that you undertake further efforts to ascertain, by a more comprehensive survey or other method, that your programming proposals will best serve the tastes, needs and interests of the Atlanta community, taking into consideration the program services already available and the points raised in the aforementioned petition relating to loss of a classical music format.

On April 30, 1969, Strauss submitted a greatly expanded market survey by Marketing and Research Counselors, Inc., which indicated that 73% of the area's listening public chose the Strauss format over a classical music one (A. 247-61). There was also submitted a letter from the Executive Vice President of the survey company which pointed out that the 2000 protesters represented a maximum of 1.1% of Atlanta area households. This letter further explained the market survey techniques used by the company (A. 247-48).

Strauss also submitted a Market & Research Counselors, Inc. interview-survey of 216 Atlanta area community and business leaders as to area needs and musical tastes (A. 261-64). Nearly 70% of this group preferred the Strauss format over a classical one (A. 243).<sup>10/</sup> Also, Strauss submitted a monitoring survey of program formats for all Atlanta radio stations (A. 265-274) from which Strauss concluded that no other station presented the Strauss music format (A. 243). Also submitted was a compilation of mail received by WGKA since Strauss took control including .

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<sup>10/</sup> Each of the 216 interview sheets for this survey were transmitted to Strauss and to the Commission, since each individual view of community needs held by community leaders is of importance to Strauss' responsibilities as a licensee and such individual views are not readily reducible to statistical summation. However, to save the Citizens Committee additional expense only 2 of the interview sheets were reproduced in the Appendix (A. 263-64).



letters of praise from some listeners who had opposed the transfer before they heard the new format (A. 275-292). Finally Strauss requested the Commission to take official notice that WOMN of Decatur, Georgia, which serves a large part of Atlanta, changed to an all classical music format in December, 1968 (A. 244).

A copy of all this material was served on counsel for the Citizens Committee (A. 244, 296, 298). On March 25, 1969, the Commission received a letter from counsel for the Citizens Committee which characterized Strauss' submissions as "ex parte supplementation of the record" and requested an opportunity to respond (A. 293-5). The Committee was afforded 30 days in which to respond and was requested to serve a copy of its response on Strauss (A. 296).

On May 22, 1969, the Committee submitted a response in the form of a letter from its counsel, which reviewed the pleadings up to that time, characterized Strauss' most recent submissions, inter alia, as self-serving, inaccurate and invalid, and renewed its request that its Petition for Reconsideration be granted (A. 297-312).

On August 25, 1969, the Commission released its Memorandum Opinion and Order denying the Citizens Committee Petition for Reconsideration (A. 313-22).<sup>11/</sup> In arriving at its decision, the

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<sup>11/</sup> Commissioner Cox dissenting, Commissioner Johnson abstaining, and Commissioners Bartley and H. Rex Lee not participating.

Commission considered not only the Petition, but also all amendments and supplements thereto, whether or not they were timely filed (A. 313). It set forth the prolonged history of the proceeding and then discussed the Citizens Committee's contentions.

As to the Committee's contention that Strauss misrepresented its interviews with Atlanta community leaders, the Commission found that the letters obtained from the leaders upon re-interview "are fully consistent with the transferee's original report of the survey . . . " (A. 319). And, therefore, no substantial or material question of fact was raised by the Committee's assertion in this regard.<sup>12/</sup>

The Commission reviewed in detail the arguments as to Strauss' choice of music format and determined that there was a substantial basis upon which Strauss made its format decision (A. 315-317):

Generally the petitioner quarrels with the station's showing. It appears to the Commission, however, that the petitioner's case stands or falls on this assertion of the petitioner:

"The Citizen's Committee has merely throughout this proceeding maintained that even if only 16% of the Atlanta public prefers full time classical music, the interest in the Atlanta community is sufficient that it was not in the public interest to eradicate the only full time classical music radio station serving the entire community and substitute therefor a popular music station since the popular music lovers, even if in a vast majority, were already receiving more than adequate service from other existing service."

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<sup>12/</sup> The Commission also found that the assertion as to a Strauss salesman's representation of program format at most was no more than a local contract dispute for resolution by local courts, if indeed, any conflict existed (A. 319).

The case here comes down to a choice of program formats -- a choice which in the circumstances is one for the judgment of the licensee. In view of WGKA's surveys and the other circumstances \*/, WGKA could reasonably conclude that its proposed "music mix", and particularly the "light classics" and "Broadway hits," would serve the public interest. So also WGKA could reasonably conclude that although apparently to a lesser degree, continuation of a classical music format would also serve the public interest. Here WGKA, again acting clearly within its discretion, has chosen a course which seeks to meet to a significant extent the needs reflected in its surveys. It determined to change from classical music to the proposed "music mix" noted above; it has also pledged to meet the needs and interests of the minority audience interested in classical music by presenting over WGKA-FM from 8:00 P.M. until 11:00 or 11:30 P.M. (depending on the length of the recording) classical music six days a week and on Sunday night starting at 8:00 P.M. a complete opera. Thus, WGKA asserts that " . . . it has recognized the desires of a minority group of listeners by providing all classical music on its FM station during evening hours . . . " and that " . . . if it determines after further dialogue with the public and with the Committee, and is otherwise satisfied that its obligations to bring a viable and worthwhile AM and FM service to its entire listening audience can be fulfilled by providing additional classical music on WGKA-FM, it will give serious consideration to additional changes in its format . . . " (p. 6 WGKA Reply to Opposition to Strike). It follows that WGKA will be supplying, to a substantial extent and during prime listening time, classical music on FM, although not on AM; \*\*/ and as to the latter facet,

\*/ We note that according to the Petition no other station in Atlanta, Georgia devotes time to "light classics" or "Broadway hits". The transferee's study also showed that no other existing station is now supplying the "music mix" provided by Strauss.

\*\*/ Station WOMN, licensed to Suburban Atlanta Radio, Decatur, Georgia broadcasts an all classical music format. The station is located 10 miles from Atlanta and a large portion of the City of Atlanta receives service from WOMN. Thus, in addition to the classical music still offered by Strauss over WGKA-FM, during the evening hours, a large portion of the Atlanta area now receives classical music over WOMN daytime. (WOMN operates on 1310 kc and is a 500 watt station daytime only.)

is the countervailing consideration that the AM and FM will not be duplicated, as was the case when the former owner was in control, thus now providing two wholly new music services to the public. Taking into account all the circumstances, we simply believe that it is within the licensee's reasonable judgment to determine to program his stations in the above manner. While public interest questions may, of course, arise in the use of a changed format, KGRD, Inc., 21 RR 781, the program format of a station is not fixed or unchangeable. The fact that one station started with a classical music format does not mean that forever more it must continue with that format. Licensees are clearly entitled to make good faith reasonable judgments as to what program formats will best serve the needs and interests of the area served. And as one would expect, there is no "right" or "wrong" in situations like the present one. WGKA might have changed from a popular Broadway hits - light classical format to a classical format with a similar or, as indicated, an even greater number of listeners displeased by the change. (Emphasis added.)

It is from this decision that the Citizens Committee  
appeals.

ARGUMENT

I. THE COMMISSION ACTED WELL WITHIN ITS DISCRETION IN DECIDING THAT THE PROPOSED TRANSFER WOULD SERVE THE PUBLIC INTEREST.

The main contention in this appeal is that the Commission erred in approving the transfer of control of stations WGKA-AM and FM without holding an evidentiary hearing on proposed changes in the station's program format and on alleged misrepresentations in data submitted to the Commission by the transferee Strauss in support of its program proposals. The procedures governing consideration of broadcast applications are specified in some detail in the Communications Act (see in particular Sections 308, 309, 311, 47 U.S.C. 308, 309, 311) and have been construed by this Court frequently since their revision in 1960. Among other things, they provide that applications may be granted without a hearing where any legal or policy questions have been resolved in favor of the applicant and when material facts are not in dispute. As to the latter it is necessary for the party seeking a hearing to come forward with specific allegations of fact, supported by affidavits from persons "with personal knowledge thereof," which if true establish a prima facie case for denial of the application. See Section 309(d) (1); Broadcast Enterprises, Inc. v. F.C.C.,

129 U. S. App. D.C. 68, 390 F.2d 483 (1968); American Federation of Musicians v. F.C.C., 123 U.S. App. D.C. 74, 356 F.2d 827 (1966); Southwestern Operating Co. v. F.C.C., 122 U.S. App. D.C. 137, 351 F.2d 834 (1965); Capitol Broadcasting Co. v. F.C.C., 116 U.S. App. D.C. 370, 324 F.2d 402 (1963). Where, as in this case, the party seeking a hearing asserts such a claim for the first time in a petition for reconsideration, an even stronger showing is required, 47 U.S.C. 405, 47 CFR 1.106(b)(c); Springfield Television Broadcasting Corp. v. F.C.C., 117 U.S. App. D.C. 214, 328 F.2d 186 (1964); Valley Telecasting Co., Inc. v. F.C.C., 118 U.S. App. D.C. 410, 336 F.2d 914 (1964).<sup>13/</sup>

We shall demonstrate that the Commission did not abuse its discretion when it declined to set aside its action and reopen the record to conduct an evidentiary hearing on the transfer application. There are no significant unresolved factual disputes and on the basis of the pleadings and affidavits before it the Commission could reasonably find that the submissions by the applicant in support of its proposals demonstrated compliance with the Commission's licensing policies.

<sup>13/</sup> Appellant argued to the Commission (A. 38) that it was not "possible or practical" to participate earlier because it did not anticipate that the Commission would act without holding a hearing and because it was not organized as a group until September 20, 1968, some three weeks after the Commission's action. The first claim is plainly frivolous. See Springfield Television Broadcasting Corp. v. F.C.C., *supra*. And as to the latter, public notice of the proposed assignment was given in Atlanta in March 1968, nearly six months before the Commission acted (See 47 U.S.C. 311(a)(1); 47 CFR 1.580); and the proposed program changes were the subject of discussion in the local press at least as early as May 6, 1968 (A. 61-68).



A. The Commission Properly Found That The Selection Of Its Musical Programming Format Is A Matter For The Reasonable Exercise Of The Licensee's Discretion.

There runs throughout appellant's brief<sup>14/</sup> the argument that the Commission should have determined that an all classical music format on WGKA-AM and FM would "better" serve the people of Atlanta, Georgia, than the format proposed by Strauss. This contention totally misconstrues the Commission's statutory function regarding licensees' programming decisions. Generally speaking, as the Supreme Court has pointed out, "Congress intended . . . to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public" (F.C.C. v. Sanders Brothers, 309 U.S. 470, 475 (1940)). And this Court has stated: "The latitude of . . . [licensees'] operation of their station insofar as programming is concerned is limited only by . . . [licensees'] discretion and good faith judgment." And "[t]heir latitude in the selection of program format, and identity of program personnel is bounded only by their own determination of

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<sup>14/</sup> See especially pp. 11-14 and 17-22.



the public interest appeal of their end product." Red Lion Broadcasting Co. v. F.C.C., 127 U.S. App. D.C. 129, 144-145 and 150, 381 F.2d 908, 923-924 and 929 (1967), affirmed, 395 U.S. 367 (1969). See also Simmons v. F.C.C., 83 U.S. App. D.C. 262, 264, 169 F.2d 670, 672 (1948), cert. denied 335 U.S. 846.

The Commission has long held that it "cannot substitute its taste for that of the broadcaster or his public -- that it cannot set itself up as a national arbiter of taste." Palmetto Broadcasting Co. (WDKD), 33 F.C.C. 250, 257 (1962), reconsideration denied 34 F.C.C. 101 (1963), affirmed sub nom. Robinson v. F.C.C., 118 U.S. App. D.C. 144, 334 F.2d 534 (1964). It has repeatedly stressed that its function "is not to pass on the merits of the program -- to commend or to frown." Pacifica Foundation, 36 F.C.C. 147, 149 (1964). See also Complaint of Anti-Defamation League of B'nai B'rith Against Station KTYM, 4 F.C.C. 2d 190, reconsideration denied 6 F.C.C. 2d 385, affirmed sub nom. Anti-Defamation League of B'nai B'rith v. F.C.C., 131 U.S. App. D.C. 146, 403 F.2d 169 (1968), cert. denied 394 U.S. 930 (1969). And in the realm of specialized music the Commission's refusal to differentiate between various formats, i.e., classical, light classical, "top forty" etc., in considering waivers of its rules<sup>15/</sup>

<sup>15/</sup> AM-FM Program Duplication, 2 F.C.C. 2d 833, 840 (1962).

was upheld by this Court in an opinion which noted "the difficulty and even impossibility" that such a judgment entailed. Buckley Jacger Broadcasting Corp. v. F.C.C., 130 U.S. App. D.C. 90, 93, 397 F.2d 651, 654 (1968); see also WBEN, Inc. v. F.C.C., 396 F.2d 601, 622 (2d Cir., 1968), cert. denied 393 U.S. 914, where the Commission's refusal to waive its pre-sunrise operating rules on programming was sustained.

Consistent with the foregoing concepts, the Commission in passing on applications for consent to transfer station licenses does not undertake a comparative appraisal of the new programming against the old where a change in format of the kind involved in this case is contemplated. See The Good Music Station (WGMS-AM and FM), 23 F.C.C. 611, 621 (1957); Bay Radio, Inc. (KEAR), 22 F.C.C. 1350, 1364 (1957).<sup>16/</sup> This is not to say that a transferee may make wholly indiscriminate program changes. Broadcasters are subject to reasonable regulation in the public interest, National Broadcasting Co. v. United States, 319 U.S. 190 (1943), and Section 310(b) of the Communications Act, 47 U.S.C. 310(b),

<sup>16/</sup> Indeed in the present case there is no indication that, should this transfer be denied, the prior owners of WGKA would be willing, or could afford, to revive a classical music format on the station. Financial reports which WGKA-AM and FM filed with the Commission show that station expenses exceeded its revenues by \$20,635 for the six year period 1962 through 1967. And, as noted in our Statement, the reason for this transfer was a lack of necessary capital.

provides that a transfer application "shall be disposed of as if the proposed transferee or assignee were making application under section 308 for the permit or license in question." Thus, the same standards applicable to initial licensing and to renewals must be met in transfer situations. This requires that the transferee demonstrate that it has made a good faith effort to ascertain community needs and to reflect them in the programs proposed. See Henry v. F.C.C., 112 U.S. App. D.C. 257, 302 F.2d 191 (1962), cert. denied 371 U.S. 821 (1963); Report and Statement of Policy re: Commission en banc Programming Inquiry, 25 Fed. Reg. 7291, 20 Pike & Fischer, R.R. 1901 (1960). Assignees are required to set forth in the application form "the methods used . . . to ascertain the needs and interests of the public served by the station. Such information shall include (1) identification of representative groups, interests and organizations which were consulted and (2) the major communities or areas which applicant principally undertakes to serve." AM-FM Program Form, Pike & Fischer, R.R. 94:45; 98:51 (Current Service).

At the time the application form was adopted, the Commission stated that it expected "broadcast permittees and licensees to take a positive, diligent and continuing effort to

provide a program schedule designed to serve the needs and interests of the public in areas served by the station. The efforts must include consultation with the general listening public, and with leaders in community life and professional and eleemosynary organizations." AM-FM Program Forms, 30 Fed. Reg. 10195, 10196, 5 Pike & Fischer, R.R. 2d 1773, 1777 (1965). Once again the Commission stressed that what is required is a "good faith effort" to ascertain community needs.

This is the test against which the Strauss proposals must be measured. After examining them, the Commission concluded (A. 32-33):

In our review of the over-all programming proposal presented by the transferee we considered carefully the concern expressed in the many informal complaints. We can appreciate that concern. However, the transferee has established through surveys and other methods that its proposal would serve the needs and interests of the people in the Atlanta market and the new specialized programming specifically serves the public interest. That being the case, the matter is one for judgment of the broadcaster and the Commission, in these instances, cannot properly insist that the prior format must be retained.

At the time it denied the Citizens Committee's Petition for Reconsideration, the Commission had before it the essentially undisputed allegations that, on the one hand, some 2,000 persons

out of 1,017,188 (or  $.1+\frac{17}{100}$ ) in the Atlanta area expressed regret or opposition to the loss of the AM-FM duplicated, classical music service and, on the other hand, that surveys indicated that 73% of Atlantans preferred the proposed Strauss popular music format to a classical one (A. 316). The Commission also noted that Strauss, in recognition of the minority interest in classical music, determined to devote FM prime time to classical music and that none of the AM programming would be duplicated on FM, as was previously the case, thus providing two wholly new music services to the public.

In this posture, the Commission found that allegations before it did not warrant designating the transfer application for hearing. It is, as the cases cited above make clear, not the proper function of the Commission to decide what the musical tastes and interests of Atlanta, Georgia, are. This is the continuing obligation of the licensee. And the licensee's conclusion as reflected in its program format is not judged by a standard of absolute correctness. Rather, the licensee must demonstrate that its efforts at ascertaining the community's tastes, needs and interests have been reasonable and were made in good faith. Here,

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17/ Pop., Atlanta Standard Metropolitan Statistical Area, 1967 County and City Data Book, 90th Cong., 1st Sess., House Doc. No. 103, p. 432.

the musical preference surveys were made by an independent survey company (A. 247-60) and the interviews with 135 community leaders and businessmen (A. 18-29E, 109-36, 261-64, and Record Item 34, Exhibit B) clearly demonstrated the good faith, reasonable basis for Strauss' programming decisions.

As the Commission stated in its denial of reconsideration (A. 317):

The fact that one station started with a classical music format does not mean that forever more it must continue with that format. Licensees are clearly entitled to make good faith reasonable judgments as to what program formats will best serve the needs and interests of the area served. And as one would expect, there is no "right" or "wrong" in situations like the present one. WGKA might have changed from a popular Broadway hits - light classical format to a classical format with a similar or, as indicated, an even greater number of listeners displeased by the change.

The Citizens Committee offers nothing that would indicate that an evidentiary hearing could demonstrate the unreasonableness of Strauss' or the Commission's determination. There are no supported factual allegations which if true would impair Strauss' good faith or the validity of its studies of the area. At most a hearing on this question would only show what is already conceded, that there are many listeners, though in relative terms a small minority,

who would prefer nothing but classical music on the stations. But even as to this it is undisputed that WGKA-FM will program classical music during <sup>evening</sup> ~~even~~ hours. And since WGKA-AM has never broadcast in the evening at all, its license specifying that it may operate during daytime hours only, classical music will be available in the evening to the same degree that it was before. The Commission also noted (A. 316) that a recently licensed daytime station in suburban Atlanta (WOMN, Decatur) broadcasts with an "all classical music format." Moreover, both the Sanders case, cited at the outset, and the Commission's general experience support the proposition that program formats undergo changes from time to time as licensees seek to attract listeners, and in communities like Atlanta where many stations exist this frequently entails efforts to attract small but loyal audiences through specialized programming. Strauss has exercised a reasonable judgment in deciding to change the programming of WGKA. But there is no reason to suppose that the situation will not continue to change and that, even with WOMN and WGKA-FM's evening programs of classical music, other stations may offer more of this programming if a significant need for it is felt.

Finally, there is no merit to the attempt by the Citizens Committee (Br. 14) to analogize this case to



Joseph v. F.C.C., 131 U.S. App. D.C. 207, 404 F.2d 207 (1968), and United Church of Christ v. F.C.C., 123 U.S. App. D.C. 328, 359 F.2d 994 (1966). Those cases, the only two cited in appellant's brief, are wholly inapposite. In the former, the Court remanded to the Commission because it had failed to articulate any reasons for its decision. Such is clearly not the case here. In the latter, the Court found specific allegations, raised in a petition to deny the application, that a licensee had violated the Fairness Doctrine and had systematically failed to serve the needs of the black population (40%) of Jackson, Mississippi, by all-white or segregated programming.

Here, the transferee had satisfied the Commission that it had made reasonable, good faith efforts to ascertain the musical tastes of its public and that its format would serve those tastes. Unlike the Joseph case, or United Church of Christ, the Commission had no reason for holding a hearing on the Strauss proposal and properly declined to do so.

B. Appellant's Erroneous Assertions Of Misrepresentation Did Not Raise Any Substantial Or Material Question Of Fact Requiring A Hearing.

Appellant contends (Br. 22-23) that in submitting to the Commission summaries of interviews with thirteen community leaders, Strauss had misrepresented the substance of six of those interviews (A. 76-79). But after the Committee made this allegation to the Commission, Strauss reinterviewed all those leaders available, including five of the six as to whom the Committee alleged misrepresentations (A. 22-29E, 109-130). Strauss showed each interviewee the summary of his prior interview and obtained a letter from each interviewee indicating that the summary was a substantially accurate reflection of the prior interview (A. 109-130). The Commission reviewed these documents in light of the Committee's allegations and found that the letters and original summaries were fully consistent, that no misrepresentation had occurred, and that no substantial and material question of fact was raised by the Committee's assertions (A. 317-319).<sup>18/</sup> A review of what Strauss represented to the Commission (A. 4, 9-14,

<sup>18/</sup> Indeed when the Strauss summaries and its reinterview letters are compared with the statements obtained from some of the community leaders by the Citizens Committee, a question is raised as to how the Committee's agents represented the Strauss summaries to the leaders whom they contacted (A. 76-90).

15B-J, 18-29E, 105-136) demonstrates that it is inconsistent only with the characterization contained in Appellant's brief (p. 22) of what was represented. Thus, appellant's assertion that "Strauss represented to the FCC that . . . no concern was expressed over the loss of a classical music format" (brief p. 22) is simply untrue. For example, Strauss in its summary of interview submitted to the Commission represented that J. Robert Watson expressed the feeling "that WGKA had a certain appeal, but to a very limited audience" (A. 25). And Mr. Watson in his subsequent letter stated that the Strauss summary "fairly represents the conversation we had at the time (A. 117).<sup>19/</sup>

The Committee also argues (Br. 23-24) that its "Second Amendment" (A. 216-231) set forth information raising an issue of whether a Strauss salesman misrepresented the station's format to an advertiser. After reviewing these allegations, the Commission determined that at most there might exist a local contract dispute (A. 319). This determination is clearly correct. A reading of the Committee's assertion (A. 216-231) makes clear that it contains no information indicating any misrepresentation by a

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<sup>19/</sup> The affidavit of Mr. Watson obtained by the Citizens Committee states that " . . . he recalls expressing his own individual views under circumstances which he thought were private and confidential" (A. 90). Strauss did not represent Mr. Watson's views as other than his own. Mr. Watson does not state that any Strauss representative gave him the impression his views were being given in confidence.

Strauss employee. Only Counsel's unverified characterization of the incident as a "calculated misrepresentation" supports the allegation. The affidavit (A. 219-223) and letters (A. 224-231) of the advertiser nowhere indicate that the Strauss employee represented the station's format as being other than what it was and would be (A. 228). Thus the affidavit of the advertiser, Mr. Carre, very carefully avoids stating that Strauss' agent said or did anything to give Mr. Carre the impression that WGKA-FM would have a full- (rather than part-) time classical music format (A. 221-22). Mr. Carre's letter to WGKA cancelling his advertising nowhere even implies that he had been misled by Strauss' sales representative (A. 230). The imaginative labeling by counsel of this event as a misrepresentation does not suffice to raise an issue of fact. Broadcast Enterprises, Inc. v. F.C.C., 129 U.S. App. D.C. 68, 390 F.2d 483 (1968). In these circumstances the Commission acted well within its discretion in denying reconsideration. Kidd v. F.C.C., 112 U.S. App. D.C. 288, 302 F.2d 873 (1962).

C. Appellant's Contentions That The Commission Improperly Requested Information From The Applicant And Failed To Render Its Decision Within The Appropriate Time Period Are Without Merit.

Appellant asserts (Br. 14-15) that the Commission's request that Strauss furnish it program survey material constituted a request for "ex parte submissions." The Committee offers no basis or support for this contention, which is frivolous. Under Section 308(b) of the Act, "The Commission, at any time after the filing of . . . [an application] may require from an applicant or licensee further written statements of fact to enable it to determine whether such . . . application should be granted or denied . . . " 47 U.S.C. 308(b). Both the Commission's request and Strauss' submissions were served on the Committee, which had and took a full opportunity to respond.<sup>20/</sup> (See pp. 10-12, supra).

The Committee also argues (Br. 16-17) that since the Commission's denial of reconsideration was released after 90 days from the date on which the Committee filed the first part of its Petition for Reconsideration, the Commission's decision is void.

<sup>20/</sup> The Committee's brief (p. 14) is in error in stating it "was given only about fifteen days to respond." It was given thirty days from the filing of Strauss' submissions (A. 296). The Committee never requested an extension of time, nor did it assert to the Commission that it had been prejudiced in any manner by any aspect of the procedure. See 47 U.S.C. 405. The Committee did not oppose the extension of time granted to Strauss for the preparation of its submission (Record Item 33).

This argument has no merit. Both Strauss and the Committee conceded that the Commission, in light of the extensive pleadings and responses filed, could waive the 90-day requirement. (See page 9, supra). When the Committee desired to file further material to supplement its original Petition, counsel for the Committee stated, " . . . I, acting in behalf of the Committee, hereby waive the 90 day period within which the Commission is obliged to act upon the Petition for Reconsideration . . . " (A. 213). It ill becomes appellant to argue now that the 90-day period is unwaivable.<sup>21/</sup>

As the Chief of the Renewal and Transfer Division of the Broadcast Bureau informed counsel for the Committee (A. 240):

According to the undisputed facts, you filed a "Petition for Reconsideration" on September 25, 1968 and thereafter on October 21, 1968 and on December 9, 1968, you tendered amendments to the Petition for Reconsideration.

While there is a ninety days provision in Section 405 of the Communications Act, there is also a provision that petitions for reconsideration must be filed "within thirty days from the date upon which public notice is given of the order, decision, . . . complained of."

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<sup>21/</sup> Additionally, the Committee filed amendments adding new allegations to its Petition 96 days after the release of the Commission's first decision, even though Section 1.106(f) of the Commission's Rules and Section 405 of the Act require such petitions and amendments to be filed within 30 days after release of that decision (See page 9, supra).



In view of these provisions, a ninety day period for Commission action on petitions for reconsideration and a thirty day period in which to file such petitions by a petitioner, it would be inequitable on the one hand to insist on the ninety day provision for Commission action and on the other hand to tender amendments to a petition for reconsideration considerably after the thirty day period.

Upon receipt of that letter, the Committee voiced no objection to the necessary enlargement of time in which the Commission rendered its decision.<sup>22/</sup> Thus the Committee's objection to that enlargement was never made to the Commission and therefore 47 U.S.C. 405 precludes its being made to this Court.

Since the Committee sought and received consideration of its own untimely filed submissions and since it did not oppose the extension of time granted Strauss, it cannot now for the first time object to the delay in release of the Commission's decision. The delay was in large part caused by the Committee's own untimeliness and the Commission's willingness to consider the Committee's late-filed amendments on their merits, rather than

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<sup>22/</sup> It should be noted that the Commission's action requesting the additional survey material from Strauss occurred within 90 days from the filing of the petition for reconsideration as supplemented and the Commission's final decision was made within 90 days of receipt of the Committee's last submission to the Commission.



dismissing them on procedural grounds. Since the delay was in part to benefit the Committee and since the Committee can assert no harm or prejudice from the delay, it cannot be a basis for upsetting the Commission's decision to deny reconsideration.

Triangle Publications, Inc. v. F.C.C., 110 U.S. App. D.C. 214, 217, 291 F.2d 342, 345 (1969).

CONCLUSION

For all of the foregoing reasons, the Commission's decisions should be affirmed.

Respectfully submitted,

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